

CRYO CELL INTERNATIONAL INC

Form 10-K

February 28, 2013

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## U.S. Securities and Exchange Commission

Washington, D.C. 20549

### FORM 10-K

x ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.  
For the fiscal year ended November 30, 2012

.. TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF  
1934.

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

Commission File Number 000-23386

## CRYO-CELL INTERNATIONAL, INC.

(Exact Name of registrant as specified in its charter)

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**DELAWARE**  
(State or other jurisdiction of

**22-3023093**  
(I.R.S. Employer

incorporation or organization)

Identification No.)

**700 Brooker Creek Blvd, Suite 1800, Oldsmar, FL 34677**

(Address of principal executive offices) (Zip Code)

**Registrant's telephone number: (813) 749-2100**

**Securities registered pursuant to Section 12 (b) of the Act:**

**Title of each class**

**None**

**Securities registered pursuant to Section 12 (g) of the Act:**

**Common Stock, par value \$0.01 per share**

(Title of class)

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 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 (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

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

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

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

Large accelerated filer  Accelerated filer   
Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes  No

The aggregate market value of the Registrant's Common Stock held by non-affiliates of the Registrant is computed by reference to the price at which the common stock was last sold as of the last business day of the Registrant's most recently completed second fiscal quarter was \$20,763,953.

State the number of shares outstanding of each of the Registrant's classes of common stock, as of the latest practicable date. As of February 15, 2013, 11,860,040 shares of \$0.01 par value common stock were issued and 10,984,880 were outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

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### **Forward-Looking Statements**

This Form 10-K, press releases and certain information provided periodically in writing or orally by the Company's officers or its agents may contain statements which constitute 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. The terms Cryo-Cell International, Inc., Cryo-Cell Company, we, our us refer to Cryo-Cell International, Inc. The words expect, believe, goal, plan, intend, estimate and similar expressions and variations used, are intended to specifically identify forward-looking statements. Those statements appear in a number of places in this Form 10-K and in other places, and include statements regarding the intent, belief or current expectations of the Company, its directors or its officers with respect to, among other things, our future performance and operating results, our future operating plans, our liquidity and capital resources; and our legal proceedings. Investors and prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those projected in the forward-looking statements as a result of various factors. The factors that might cause such differences include, among others, the factors discussed under Item 1A Risk Factors of this Form 10-K.

### **ITEM 1. BUSINESS.**

#### **Introduction**

Cryo-Cell International, Inc. ( the Company or Cryo-Cell ) operates in one reportable segment and is principally engaged in cellular processing and cryogenic storage, with a current focus on the collection and preservation of umbilical cord blood stem cells for family use. The Company, in combination with its global affiliates, currently stores over 275,000 cord blood specimens worldwide for the exclusive benefit of newborn babies and possibly other members of their families. Founded in 1989, the Company was the world's first private cord blood bank to separate and store stem cells in 1992. All aspects of its U.S.-based business operations, including the processing and storage of specimens, are handled from its headquarters facility in Oldsmar, Florida. The specimens are stored in commercially available cryogenic storage units at this technologically and operationally advanced facility.

In recent years, utilizing its infrastructure, experience and resources derived from its umbilical cord blood stem cell business, the Company has expanded its research and development activities to develop technologies related to stem cells harvested from sources beyond umbilical cord blood stem cells. During 2007, much of the Company's research and development activities focused on the development of proprietary technology related to maternal placental stem cells (MPSCs). Also in 2006, the Company discovered technology related to menstrual stem cells. In November 2007, the Company announced the commercial launch of the menstrual stem cell service related to this patent-pending technology. The Company continues to focus on independently-funded research and development activities through research collaboration partners. The Company offers the menstrual stem cell service on a stand-alone basis. In 2010, the Company introduced the reproductive tissue storage service which includes storage of embryos, oocytes and sperm, to the medical industry and their clients worldwide. During fiscal 2011 the Company introduced the advanced new cord tissue service, which stores a section of the umbilical cord tissue. The Company offers the cord tissue service in combination with the umbilical cord blood service. This service is growing; however, the umbilical cord blood service continues to be the Company's main focus.

The Company was incorporated on September 11, 1989 in the State of Delaware.

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### **Cord Blood Stem Cell Processing and Storage Business**

#### ***Background of Business***

Nearly fifty years ago researchers discovered that cells could be cryopreserved at extremely low temperatures and all cellular activity would cease until the specimens were thawed. Historically, cryopreservation was required for organ transplants, blood banking and medical research. Today, cryopreservation of umbilical cord blood stem cells gives expectant parents the opportunity to potentially take advantage of evolving cellular therapies and other medical technologies.

Hematopoietic stem cells are the building blocks of our blood and immune systems. They form the white blood cells that fight infection, red blood cells that carry oxygen throughout the body and platelets that promote healing. Stem cells are found in bone marrow where they continue to generate cells throughout our lives. Stem cells can be stored in a cryogenic environment, and upon thawing, infused into a patient. They can be returned to the individual from whom they were taken (autologous) or donated to someone else (allogeneic). An individual's own bone marrow may be used for a transplant if the cancer has not entered the marrow system (metastasized). Otherwise, a marrow donor needs to be identified to provide the needed bone marrow. The availability of a marrow donor or matched stem cell specimen allows physicians to administer larger doses of chemotherapy or radiation in an effort to eradicate the disease. Stem cell therapies and transplants are used for both cancerous and non-cancerous diseases.

Stem cells are found in umbilical cord/placental blood ( cord blood stem cells ) and can be collected and stored after a baby is born. Over 20,000 cord blood stem cell transplants have been performed to date. The Company believes that parents will want to save and store these cells for potential future use by their family, either for the donor or for another family member. Moreover, researchers believe they may be utilized in the future for treating diseases that currently have no cure.

The Company believes that the market for cord blood stem cell preservation is enhanced by global discussion on stem cell research developments and the current focus on reducing prohibitive health care costs. With the increasing costs of bone marrow matches and transplants, a newborn's umbilical cord blood cells can be stored as a precautionary measure. Medical technology is constantly evolving which may provide new uses for cryopreserved cord blood stem cells.

#### ***Our Cord Blood Stem Cell Storage Services***

The Company enters into storage agreements with its clients under which the Company charges a fee for the processing and testing and first year of storage of the umbilical cord blood. Thereafter, the client is charged an annual fee to store the specimen, unless the client has entered into a 21-year pre-paid storage plan.

The Company's corporate headquarters are located in a nearly 18,000 square-foot state-of-the-art current Good Manufacturing Practice and Good Tissue Practice (cGMP/cGTP)-compliant facility. Food and Drug Administration ( FDA ) 21 CFR Part 1271, effective in May 2005, requires human cellular and tissue-based products to be manufactured in compliance with good tissue practices (cGTPs). The Company's laboratory processing facility contains a Class 10,000 clean room and Class 100 environments for the processing of cord blood stem cells and other cellular tissues. In addition, the cellular products cryogenic storage area has been designed as a bunker, with enhanced provisions for security, building fortification for environmental element protection and back-up systems for operational redundancies. The Company believes that it was the first private bank to process cord blood in a technologically and operationally advanced cGMP/cGTP-compliant facility. The Company's facility, which also currently houses the Company's clinical services, marketing and administrative operations, is designed to accommodate a broad range of events such as client tours and open houses, as well as educational workshops for clinicians and expectant parents.

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### ***Competitive Advantages***

The Company believes that it provides several key advantages over its competitors, including:

One of the largest and oldest private family cord blood banks, with an established client base exceeding 275,000 worldwide,

Our status as a cGMP- and cGTP-compliant private cord blood bank with both International Organization for Standardization ( ISO ) certification and AABB accreditation,

a state-of-the-art laboratory processing facility,

a safe, secure and monitored storage environment,

since inception, 100% of the Company's specimens have been viable upon thaw,

7 day per week processing capability,

a 24-hour, 7 day per week client support staff to assist clients and medical caregivers,

high-value pricing,

a payment warranty under which the Company agrees to pay \$50,000 (effective February 1, 2012 this payment was increased to \$75,000 for new clients) to its client if the umbilical cord blood product retrieved is used for a stem cell transplant for the donor or an immediate family member and fails to engraft, subject to various restrictions, and

a \$10,000 Cryo-Cell Cares payment that provides families with a lump-sum payment to assist with personal living expenses in the event that their child's Cryo-Cell processed and stored cord blood specimen is utilized for bone marrow transplant.

### **Menstrual Stem Cell Technology**

In November 2007, the Company announced its discovery of menstrual stem cell technology and its launch of the world's first-ever commercial service allowing women to store their own menstrual stem cells. Menstrual stem cells are highly proliferative stem cells found in the menstrual blood produced during a woman's period. The stem cells possess the unique ability to develop into various other types of healthy cells. During a woman's menstrual cycle, valuable stem cells are discarded in the menstrual blood. The Cryo-Cell Menstrual Stem Cell Service easily captures these self-renewing stem cells and then processes and cryopreserves them for emerging cellular therapies and the potential treatment of many life-threatening diseases. Menstrual stem cells have similar regenerative capabilities as stem cells from umbilical cord blood or bone marrow. The Cryo-Cell Menstrual Stem Cell Service offers any woman in her reproductive years the ability to store and preserve these cells for herself or potentially for use by a family member.

Menstrual stem cells are multipotent because they can differentiate into at least five known cell types. In addition, the stem cells in menstrual blood are highly proliferative—replicating every 24-36 hours. To date, these stem cells have been sub-cultured up to 47 times; umbilical cord blood stem cells





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subculture generally a maximum of 12 times. It is important to note that menstrual stem cells retain embryonic stem cell markers, giving them the remarkable potential to morph into many different healthy cell types. The unique properties of these cells demonstrate the possibilities they offer in future therapeutic applications. Currently, they are being studied to treat stroke, heart disease, diabetes, neurodegenerative diseases, and ischemic wounds in pre-clinical and clinical models.

The Company believes menstrual stem cells will have a significant impact on regenerative medicine. Menstrual stem cells are easily available, compared to stem cells from bone marrow and cord blood that are commonly used in treatments today. Further, the menstrual stem cell commercial service allows many more cells to be extracted and stored, compared to the limitations on the number of cells that can be extracted from bone marrow or cord blood, a factor that limits many treatments today.

Although menstrual stem cells have not been used to date in human therapies, animal studies of menstrual stem cells have commenced, showing strong potential value. This research is further supported by several recent scientific publications that demonstrate the potential of menstrual stem cells for human therapies such as cardiac and bone repair. We believe that Cryo-Cell is the first and only company to launch a menstrual stem cell service that will enable women to collect and store these stem cells. The Company has filed patent applications to protect a broad range of intellectual property (IP) associated with menstrual stem cell technology, and has licensed the exclusive service in selected global markets. The Company has executed collaborative research agreements with several leading stem cell researchers who have initiated preclinical studies in a broad range of diseases reflecting the significance of this discovery, including diabetes, cardiac and neurological diseases and disorders such as stroke and Alzheimer's disease.

The Company estimates that over 70 million women in the U.S. alone are in the target market for the menstrual stem cell service. The Company anticipates that the menstrual stem cell market penetration will expand over time as scientific research is announced and therapeutic developments emerge.

## **Reproductive Tissue Storage**

In October 2010, the Company announced a new reproductive tissue storage service for cryopreserved embryos, oocytes and sperm. This new service offers high quality and competitively priced reproductive tissue services that will include short and longer-term cryogenic storage, inter-facility transportation coordination, and special quarantined cryogenic storage for infectious disease positive specimens.

The reproductive tissue storage intends to assure clients of enhanced security and significant single-source savings for their family's current and future biological tissue cryogenic storage needs. Reproductive tissue storage clients will be eligible to purchase any Cryo-Cell service at discounted returning client pricing, including the Company's signature umbilical cord blood stem cell preservation service, umbilical cord tissue service, and the menstrual stem cell service. Reproductive tissue storage is also expected to assist clients with the facilitation of future possibilities available for their cryopreserved specimens, including donation for research, anonymous or direct donation.

## **Cord Tissue**

In August 2011, the Company introduced its advanced new cord tissue service, which stores a section of the umbilical cord tissue. Approximately six inches of the cord tissue is procured and transported to the Company's laboratory for processing, testing and cryopreservation for future potential use. Umbilical cord tissue is a rich source of mesenchymal stem cells (MSCs), which are increasingly being utilized in regenerative medicine research, targeting potential therapies for a wide range of conditions including heart disease, stroke, multiple sclerosis and diabetes.

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### **Marketing**

#### *Marketing Approach*

It is the Company's mission to inform expectant parents and their prenatal care providers of the potential medical benefits from preserving stem cells and to provide them the means and processes for collection and storage of these cells. Today, stem cell transplants are known and accepted treatments for approximately 80 diseases, a number of them life-threatening. With continued research in this area of medical technology, other therapeutic uses for cord blood stem cells are being explored. A vast majority of expectant parents are simply unaware that umbilical cord blood contains a rich supply of non-controversial stem cells and that they can be collected, processed and stored for the potential future use of the newborn and possibly related family members. A baby's stem cells are a perfect match for the baby throughout its life and have at least a 1-in-4 chance of being a perfect match for a sibling. There is no assurance however, that a perfect match means the cells could be used to treat certain diseases of the newborn or a relative. Today, it is still common for the cord blood (the blood remaining in the umbilical cord and placenta) to be discarded at the time of birth as medical waste.

Despite the potential benefits of umbilical cord blood stem cell preservation, the number of parents of newborns participating in stem cell preservation is still relatively small compared to the number of births (four million per annum) in the United States. Some reasons for this low level of market penetration are the misperception of the high cost of stem cell storage and a general lack of awareness of the benefits of stem cell preservation programs. However, evolving medical technology could significantly increase the utilization of the umbilical cord blood for transplantation and/or other types of treatments. The Company believes it offers the highest quality, highest value service targeted to a broad base of the market. We intend to maximize our growth potential through our superior quality, value-driven competitive leadership position, product differentiation, a fast-growing embedded client base, increased public awareness and accelerated market penetration.

#### *Umbilical Cord Blood and Cord Tissue Services*

The Company markets its cord blood stem cell preservation services directly to expectant parents and by distributing information through obstetricians, pediatricians, childbirth educators, certified nurse-midwives and other related healthcare professionals. The Company believes that its revenues have been facilitated by a variety of referral sources, resulting from high levels of customer satisfaction. New expectant parent referrals during fiscal 2012 were provided by physicians, midwives and childbirth educators, and by client-to-client referrals and repeat clients storing the stem cells of their additional children.

Beginning in 2012, the Company established a national sales force to increase its marketing activities with its clinical referral sources, including physicians, midwives and hospitals. Promotional activities also include advertisements in several clinical journals and telemarketing activities. In addition, the Company exhibits at conferences, trade shows and other meetings attended by medical professionals. Significant portions of client referrals to the Company are from medical caregiver professionals.

To increase awareness among expectant parent audiences, the Company continues to promote its service through internet marketing and print advertising in national targeted prenatal magazines, as well as several magazines distributed during childbirth classes. Expectant parents have also received information via emails and internet marketing campaigns.

The Company's client support team of highly trained advisors are available by telephone 24 hours, 7 days a week to enroll clients and educate both expectant parents and the medical community on the life-saving potential of cord blood stem cell preservation.

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The Company continues to use its Web site, [www.cryo-cell.com](http://www.cryo-cell.com), to market its services and to provide resource information to expectant parents. The site, which is frequently updated and improved, is divided into areas of interest, including sections for expectant parents, medical caregivers and investors. Expectant parents may request and receive information about the umbilical cord blood and cord tissue service and enroll online. Viewers may read about successful transplants using Cryo-Cell stored cord blood stem cells and access other topical information.

### *Menstrual Stem Cell Service*

The menstrual stem cell marketing strategy includes plans to increase marketing activities with its clinical referral sources. The Company believes that many women in the target market may opt to participate in the menstrual stem cell service more than one-time because of family history of disease; perimenopause; or other conditions, such as a prospective hysterectomy.

The Company has executed numerous collaborative research agreements with stem cell researchers who are studying menstrual stem cells in various pre-clinical models including diabetes, breast cancer, heart disease, vascular regeneration, stroke and autoimmune diseases. Although the Company does not have funding commitments with any of the collaborative research agreements, it shares in any intellectual property generated by the research. The Company expects to place greater promotional emphasis on its menstrual stem cell service in the future and increase its marketing expenditures.

### **Competition**

Growth in the number of families banking their newborn's cord blood stem cells has been accompanied by an increasing landscape of competitors. The Company competes against approximately 25 other national private cord blood banks.

These competitors may have access to greater financial resources. Nevertheless, the Company believes it is currently well positioned to compete in the industry. Importantly, the Company believes that some competitors charge more for comparable quality service. In addition, the Company possesses an industry-recognized AABB accreditation, and believes that it was the first private cord blood bank to process in a cGMP- and cGTP-compliant facility exceeding current FDA requirements. In November 2005, the Company was granted ISO 9001:2008 certification from BSI America, Inc., a leading quality management systems registrar. ISO (International Organization for Standardization) standards are internationally recognized as an effective framework for a quality management system. This achievement positions Cryo-Cell as an industry quality leader as a cGMP- and cGTP-compliant private cord blood bank with both ISO certification and AABB accreditation.

The Company also operates in an environment where various public cord blood banks are encouraging parents to donate their newborn's cord blood rather than privately banking it. Although this option is generally no-cost to the parents, there is no assurance that the newborn's cells would be available to the family, if they were needed. The Company believes that the distinctive benefits of private cord blood banking clearly differentiate its services from that of public cord banks.

The Company believes that its longevity and experience; value-based pricing strategy; superior customer service supported by a 24/7 professional staff; premier technical and operational expertise; state-of-the-art facilities; innovative marketing programs and its expansive client base will continue to provide a competitive advantage. The Company believes the availability of our menstrual stem cell service will ultimately provide a competitive advantage over competitors that offer only the storage of umbilical cord blood and cord tissue.

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### **Government Regulation**

The Company is required to register with the FDA under the Public Health Service Act because of its ongoing cellular storage business and is subject to FDA inspection. This requirement applies to all establishments engaged in the recovery, processing, storage, labeling, packaging, or distribution of any Human Cells, Tissues, and Cellular and Tissue-Based Products ( HCT/Ps ) or the screening or testing of a cell or tissue donor. At November 30, 2012, the Company was in compliance with this requirement.

The division of FDA which regulates HCT/Ps is the Center for Biologics Evaluation and Research ( CBER ). The section of FDA Code of Federal Regulations ( CFR ) pertaining to cord blood is 21 CFR 1271. Since 2004, the FDA has formulated a Tissue Action Plan which consists of these three rules:

1. As of January 21, 2004, all cord blood banks are required to register with the FDA. Any cord blood bank which has a laboratory should be on the web page of FDA Registered Establishments.
2. The second rule was published May 20, 2004, and became effective May 25, 2005. It pertains to donor eligibility. This rule requires more screening of donors for communicable diseases.
3. The final rule establishes FDA standards of current Good Tissue Practice ( GTP ) for laboratories which process HCT/Ps. This rule was published November 19, 2004, became effective May 25, 2005, and is intended to prevent contamination or cross-contamination during the handling of HCT/Ps.

These three FDA rules apply only to cord blood processed on or after the effective date of May 25, 2005. The final rule allows the FDA to inspect cord blood laboratories to determine compliance with the provisions of 21 CFR Part 1271. In the summer of 2009, the FDA began conducting unannounced inspections of cord blood banks.

Currently, the states of California, Illinois, Maryland, New Jersey and New York require cord blood banks to be registered or licensed. The Company is currently registered or licensed to operate in these states. If the Company identifies other states with licensing requirements or if other states adopt such requirements, the Company would have to obtain licenses or registration to continue providing cord blood services in those states.

Federal and state laws govern the Company's ability to obtain and, in some cases, to use and disclose data that we may need to conduct certain activities. The Health Insurance Portability and Accountability Act of 1996 ( HIPAA ) requires the Department of Health and Human Services to issue a series of regulations establishing standards for the electronic transmission of certain health information. The Company is not subject to HIPAA because the Company does not engage in certain electronic transactions related to the reimbursement of healthcare providers and because blood and tissue procurement and banking activities are exempt. However, the healthcare providers that collect umbilical cord blood for the Company's customers are subject to HIPAA. The identifiable information shared is only what is permitted by HIPAA. In 2009, a portion of the American Recovery and Reinvestment Act of 2009 modified HIPAA under the Health Information Technology for Economic and Clinical Health Act ( HITECH Act ). While the Company is still not subject to HIPAA for the reasons stated above the Company may incur material expenses associated with compliance efforts. In addition, compliance may require management to spend substantial time and effort on compliance measures. If the Company fails to comply with HIPAA, it could suffer criminal and civil penalties. The civil penalties could include monetary penalties ranging from \$100 per violation to \$1.5 million depending on the level of violation.

The Company is also subject to local, state and federal laws and regulations relating to safe working conditions, laboratory and manufacturing practices and the use and disposal of hazardous or potentially hazardous substances. These laws include the Occupational Safety and Health Act ( OSHA ), cGTPs, cGMPs, Environmental Protection Agency ( EPA ), and those of the local Department of Health.

OSHA requires all employers to assure safe and healthful working conditions for working men and women through development and implementation of work standards, education,

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and training. OSHA enforces the standards developed under the Act, applicable to all employers in the U.S. and its territories. cGTPs are laws, enforced by the FDA, that define and govern methods used in the manufacture of Human Cells, Tissues, and cellular and tissue-based Products (HCT/Ps). Current Good Manufacturing Practices (cGMPs) are laws, enforced by the FDA, that define and govern methods used in the manufacture of drugs and finished pharmaceuticals. Both of the latter federal practices, or laws, govern the Company's products.

The Environmental Protection Agency (EPA) governs the management and proper disposal of products and by-products or waste. These products must be disposed in a manner that does not adversely affect the environment from which it came or where disposed of. The Department of Health on the local level primarily regulates systems and associated equipment employed in recovery activities such as back-up generators; therefore, governing specific internal processes.

Evolving legislation and regulations governing private cord blood banking in various jurisdictions throughout the world may impact the Company's international licensees.

In addition, as the organization grows and evolves, other legislation and regulations are expected to impact the Company. One such evolution involves activities that may be designated as or involve medical research or cooperative agreements associated with medical research. These types of activities are also governed by the FDA, specifying oversight by an Institutional Review Board (IRB). The IRB is a board or committee that approves the initiation of, and conducts periodic review of, biomedical research involving human subjects. The primary purpose of such review is to assure the protection of the rights and welfare of the human subjects. Governance of biomedical research is codified as laws by Title 21 of the Code of Federal Regulations (CFR) Part 56, and enforced by the FDA. Other medical research associated with clinical trials may require an Investigational New Drug Application (IND). Current Federal law requires that a drug be the subject of an approved marketing application before it is transported or distributed across state lines. Because a sponsor will likely want to ship the investigational drug to clinical investigators in many states, it must seek an exemption from that legal requirement. The IND is the means through which the sponsor technically obtains this exemption from the FDA. This approval would be required in the case of a clinical trial.

## **Subsidiaries and Joint Ventures**

Since its inception, Cryo-Cell has entered into a number of business activities through subsidiaries and joint ventures, including the following activities and those described under International below. Cryo-Cell had de-emphasized certain of these activities in prior periods in connection with the Board of Directors' strategic decision to focus the Company's priorities and resources on its core business of marketing cord blood stem cell preservation services. In recent periods, however, the Company has evaluated and pursued, and intends to continue to evaluate and pursue, certain opportunities for global expansion, on a selective basis, in which operational synergies and economic potential align with Cryo-Cell's strategic direction.

***Saneron CCEL Therapeutics, Inc.*** The Company owns an approximate 34% interest in Saneron CCEL Therapeutics, Inc. ( Saneron ) as of November 30, 2012 and 2011, respectively. Saneron is the owner and/or exclusive licensee of technology developed by and/or in collaboration with the University of South Florida ( USF ) and the University of Minnesota ( UMN ). The technology covers various patents, patent applications and trade secrets for the therapeutic use of umbilical cord blood stem cells (U-CORD-CELL ) and Sertoli cells (SERT-CELL ).

To date, Saneron has received twelve SBIR/STTR grants, has been the industry sponsor on eleven Florida High Tech Corridor grants, one James and Esther King Biomedical Research Grant, and has participated in several other corporate and non-profit R&D projects to continue their efforts towards the development of cellular therapies for neurological and cardiac disorders. In November 2005, Saneron received a grant from the Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute, Inc. for the

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study of the Saneron U-CORD-CELL as a treatment for Alzheimer's. During 2005 and 2006, Saneron and GE Healthcare completed two phases of a joint research project intended to optimize GE Healthcare's Ficoll-Paque for isolating stem cells from umbilical cord blood. The preliminary results from that study were presented at the International Society for Cellular Therapy meeting in Berlin, Germany. Validation studies needed for the submission of a Drug Master File of Saneron's U-CORD-CELL have been underway at Cryo-Cell International's GMP facility and the University of South Florida. Saneron is currently drafting Investigational New Drug (IND) applications for the use of the U-CORD-CELL as a potential therapy for Alzheimer's, ALS and stroke.

In January 2008, the Company announced that it has formalized a research and development agreement with Saneron to develop regenerative therapies utilizing Cryo-Cell's menstrual stem cell technology. Cryo-Cell and Saneron will collaborate on research in pre-clinical models for certain neurological diseases and disorders. Under terms of the agreement, the Company will provide Saneron with menstrual stem cells along with the proprietary methodology associated with the technology. Saneron will provide study materials and develop research methodology for potential therapeutic applications associated with designated pre-clinical applications. Intellectual property resulting from this research collaboration will be jointly owned by the parties.

In February 2010, Saneron received a Phase I STTR grant for a joint project with Henry Ford Health System on the use of the U-CORD-CELL as a potential therapy for stroke. In June 2010, Saneron received a James and Esther King Biomedical Grant, which was matched with a Florida High Tech Corridor Industry Seed Grant, to study the potential of Cryo-Cell's menstrual stem cell technology as a possible treatment for stroke. Finally in September 2010, Saneron received a 2 1/2 year Phase II STTR grant to further translate the research underway on the use of the U-CORD-CELL as a potential therapy for Alzheimer's. This \$2.6 million Phase II STTR grant has also been matched with three Florida High Tech Corridor Industry Seed Grants. In 2012, Saneron contributed to four peer-reviewed scientific publications and two scientific poster presentations.

## **Revenue Sharing Agreements ( RSAs )**

The Company entered into RSAs prior to 2002 with various third and related parties. The Company's RSAs provide that in exchange for a non-refundable up-front payment, the Company would share for the duration of the contract a percentage of its future revenue derived from the annual storage fees charged related to a certain number of specimens that originated from specific geographical areas. The RSAs have no definitive term or termination provisions. The sharing applies to the storage fees collected for all specified specimens in the area up to the number covered in the contract. When the number of specimens is filled, any additional specimens stored in that area are not subject to the RSA. As there are empty spaces resulting from attrition, the Company agrees to fill them as soon as possible. The Company reflects these up-front payments as long-term liabilities on the accompanying consolidated financial statements. The Company does not intend to enter into additional RSAs.

In the future, the Company could reverse the liability relating to the RSAs up-front payments over an appropriate period of time, based on the Company's expectations of the total amount of payments it expects to pay to the other party under the particular RSA. However, the RSAs do not establish a finite term or time frame over which to estimate the total payments and the Company had not previously estimated and has concluded that it is not currently practicable to estimate the projected cash flows under the RSAs. At present, the Company intends to defer the reversal of the liability, until such time as these amounts can be determined. During the periods when the Company defers the reversal of the liability, the quarterly payments made during these periods are treated as interest expense, which is recognized as the payments become due. In future periods, if a portion of the liability can be de-recognized based on the effective interest method, the payments will be allocated between interest and amortization of the liability. As cash is paid out to the other party during any period, the liability would be de-recognized based on the portion of the total anticipated payouts made during the period, using the effective interest method. That is, a portion of the payment would be recorded as interest expense, and the remainder would be treated as repayment of principal, which would reduce the liability.

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**Florida.** On February 9, 1999, the previous agreements with the Company's Arizona Revenue Sharing investors were modified and replaced by a revenue sharing agreement for the state of Florida for a price of \$1,000,000. The revenue sharing agreement applies to net storage revenues originating from specimens from within the state of Florida less a deduction for billing and collection fees. The revenue sharing agreement entitles the investors to revenues of up to a maximum of 33,000 storage spaces. A former member of the Board of Directors of the Company is a 50% owner of this revenue sharing agreement. The revenue sharing agreement was entered into prior to the time he became a member of the Board from which he resigned during December 2004.

**Illinois.** In 1996, the Company signed agreements with a group of investors entitling them to an on-going 50% share of the Company's 75% share of the annual storage fees ( net storage revenues ) less a deduction for billing and collection expenses generated by specimens stored in the Illinois Masonic Medical Center for a price of \$1,000,000. The agreements were modified in 1998 to entitle the investors to a 50% share of the Company's 75% share of the annual storage fees (net storage revenues) less a deduction for 50% of billing and collection expenses relating to specimens originating in Illinois and its contiguous states and stored in Oldsmar, Florida for a maximum of up to 33,000 storage spaces.

**New York.** On February 26, 1999, the Company entered into a modified revenue sharing agreement with Bio-Stor International, Inc. ( Bio-Stor ) for the state of New York. The Company credited the \$900,000 Bio-Stor had previously paid toward the purchase of 90% of the Company's 50% portion of net storage revenues generated from the specimens originating from the Company's clients in the state of New York less a deduction for billing and collection of fees for up to 33,000 shared storage spaces. This agreement supersedes all other agreements between Bio-Stor and the Company.

On November 5, 1998, an agreement previously entered into with a private investor was revised. Per the terms of the original agreement, the investor had purchased 10% of a revenue sharing agreement in the state of New Jersey. The 1998 agreement transferred the \$100,000 investment such that it now applies to the state of New York. Under the revised agreement the investor will receive 10% of the 50% share in the Company's portion of net storage revenues generated by the specimens originating from the Company's clients in the state of New York for up to 33,000 spaces.

**Texas.** On May 31, 2001, the Company entered into an agreement with Red Rock Partners, an Arizona general partnership, entitling them to on-going shares in a portion of the Company's net storage revenue generated by specimens originating from within the State of Texas for a price of \$750,000. The investors are entitled to a 37.5% share of net storage revenues less a deduction for billing and collection fees for specimens originating in the State of Texas to a maximum of 33,000 storage spaces. The same former member of the Board of Directors is a 50% owner of Red Rock. The revenue sharing agreement was entered into prior to the time he became a member of the Board, from which he resigned during December 2004. During fiscal 2008, Red Rock assigned 50% of their interest in the agreement to SCC Investments, Inc., an Arizona corporation. Subsequent to November 30, 2009, SCC Investments, Inc. assigned its interest to SCF Holdings, LLC, an Arizona limited liability company.

The Company made total payments to all RSA holders of \$807,098 and \$1,408,726 for the fiscal years ended November 30, 2012 and 2011, respectively. The Company recorded an RSA accrual of \$419,198 and \$730,524 as of November 30, 2012 and 2011, respectively, related to interest owed to the RSA holders, which is included in accrued expenses in the Company's consolidated financial statements under Item 8 of this Annual Report or Form 10-K.

***Extinguishment of RSAs***

In December 2011, the Company entered into an Asset Purchase Agreement with Bio-Stor canceling the Bio-Stor Revenue Sharing Agreement ( RSA ). Pursuant to the terms of the Asset Purchase

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Agreement, in December 2011, the Company made a one-time, lump-sum payment in the amount of \$2.3 million to Bio-Stor, and Bio-Stor sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in the RSA. The payment amount of \$2.3 million was offset by the carrying amount of the short-term liability related to Bio-Stor in the amount of \$900,000 and an accrued expense in the amount of \$172,610 to reflect the extinguishment of debt in the amount of \$1,227,390 for the twelve months ended November 30, 2012. The long-term liability related to Bio-Stor in the amount of \$900,000 was reclassified and was reflected as short-term liability revenue sharing agreements in the accompanying consolidated balance sheets as of November 30, 2011.

In May 2012, the Company entered into Asset Purchase Agreements with two investors who each had a 22% interest in 45% of the Illinois Revenue Sharing Agreement ( Illinois RSA ). Pursuant to the terms of the Asset Purchase Agreements, in May 2012, the Company made a one-time, lump-sum payment in the amount of \$138,000 to each of the investors, and the investors sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in their 22% interest of 45% of the Illinois RSA. The total payment amount of \$276,000 was offset by the carrying amount of the long-term liability related to the Illinois RSA in the amount of \$200,000 and an accrued expense in the amount of \$21,445 to reflect the extinguishment of debt in the amount of \$54,555 for the twelve months ended November 30, 2012.

In June and July 2012, the Company entered into Asset Purchase Agreements with certain investors with an interest in 45% of the Illinois RSA and an interest in a RSA with specimens that originate in the state of New York. Pursuant to the terms of the Asset Purchase Agreements, during the third quarter of fiscal 2012, the Company made total payments in the amount of \$672,000 to the investors, and the investors sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in their interests in the RSA s. The total payment amount of \$672,000 was offset by the carrying amount of the long-term liability related to the RSA s in the amount of \$350,000 and an accrued expense in the amount of approximately \$8,300 to reflect the extinguishment of debt in the amount of \$313,661 for the twelve months ended November 30, 2012.

## **International**

The Company has entered into licensing agreements with certain investors in various international markets in an attempt to capitalize on the Company s technology. The investors typically pay a licensing fee to receive Company marketing programs, technology and know-how in a selected area. The licensing agreement may also give the investor the right to sell sub-license agreements. As part of the accounting for the up-front license revenue, revenue from the up-front license fee is recognized based on such factors as when the payment is due, collectability and when all material services or conditions relating to the sale have been substantially performed based on the terms of the agreement.

The Company enters into two types of licensing agreements and in both types, the Company earns revenue on the initial license fees. Under the technology agreements, the Company earns processing and storage royalties from the affiliates that process in their own facility. Under the marketing agreements, the Company earns processing and storage revenues from affiliates that store specimens in the Company s facility in Oldsmar, Florida.

## **Technology Agreements**

The Company has entered into definitive License and Royalty Agreements with Cryo-Cell de Mexico ( Mexico ) and Lifecell ( India ) to establish and market its umbilical cord blood program in Mexico and India, respectively.

The Company has entered into definitive License and Royalty Agreements with Asia Cryo-Cell Private Limited and S-Evans Bio-Sciences, Inc. to establish and market its menstrual stem cell program in India and China, respectively.



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On August 19, 2011, the Company received notification from Mexico that it was terminating the license agreement effective immediately due to an alleged breach of the license agreement. On October 17, 2011, the Company and Mexico entered into an amendment to the license agreement whereby the termination has been revoked and Mexico will pay the Company \$1,863,000 in 37 monthly installments of \$50,000 beginning on October 17, 2011 with a final payment of \$13,000. Mexico will have no other continuing obligations to the Company for royalties or other license payments and the agreement will be effectively terminated once the entire \$1,863,000 has been received. The amendment will result in a reduction of licensee income in future periods.

As of November 30, 2012 and November 30, 2011, the Company recorded a receivable of \$1,115,505 and \$1,656,476, respectively, in the accompanying consolidated balance sheets. As of November 30, 2012 and November 30, 2011, the Company recorded deferred revenue of \$1,104,623 and \$1,633,910, respectively, in the accompanying consolidated balance sheets. Accounts receivable is calculated using the present value of all of the monthly installments using a discount rate that reflects both the risk-free rate at the inception of the contract and the contract period. In accordance with the agreement, the Company received twelve installments of \$50,000 during fiscal 2012 which is reflected in the consolidated statement of operations as of November 30, 2012 as licensee and interest income. The installment amounts that are to be received and recognized within the next twelve months have been classified as short-term as Accounts Receivable in the accompanying consolidated balance sheets.

**Marketing Agreements**

The Company has entered into definitive license agreements to market both the Company's umbilical cord blood and menstrual stem cell programs in Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Pakistan, Peru and Venezuela. In October 2012, the Company sent notice of termination to the Company's Venezuelan affiliate for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Venezuela. The Company is in the process of discussing a new agreement. In December 2012, the Company sent notice of termination to the Company's affiliate in Ecuador for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Ecuador. The Company is in the process of discussing a new agreement.

Processing and storage revenues from specimens originating in territories that store at the Company's facility in Oldsmar, Florida totaled approximately \$1,595,000 and \$1,421,000 for fiscal years 2012 and 2011 and are reflected in processing and storage fees in the accompanying consolidated statements of operations.

The following table details the initial license fees for the technology and marketing agreements and processing and storage royalties earned for the technology agreements for fiscal years 2012 and 2011. The initial license fees and processing and storage royalties are reflected in licensee income in the accompanying consolidated statements of operations.

|              | For the years ended November 30, |                               |                     |                  |                               |                     |
|--------------|----------------------------------|-------------------------------|---------------------|------------------|-------------------------------|---------------------|
|              | 2012                             |                               |                     | 2011             |                               |                     |
|              | License Fee                      | Process and Storage Royalties | Total               | License Fee      | Process and Storage Royalties | Total               |
| China        | \$                               | \$                            | \$                  | \$               | \$ 50,000                     | \$ 50,000           |
| India        |                                  | 677,647                       | 677,647             |                  | 677,647                       | 677,647             |
| Mexico       |                                  | 619,171                       | 619,171             |                  | 595,306                       | 595,306             |
| Costa Rica   | 25,000                           |                               | 25,000              | 15,983           |                               | 15,983              |
| Germany (1)  |                                  |                               |                     | 9,769            |                               | 9,769               |
| Nicaragua    | 20,000                           |                               | 20,000              | 15,000           |                               | 15,000              |
| <b>Total</b> | <b>\$ 45,000</b>                 | <b>\$ 1,296,818</b>           | <b>\$ 1,341,818</b> | <b>\$ 40,752</b> | <b>\$ 1,322,953</b>           | <b>\$ 1,363,705</b> |

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- (1) Innovative Medical Solutions SRL ( Germany ) advised the Company that it intends to terminate the umbilical cord blood and menstrual stem cell license agreements. Per the terms of the agreements, Germany owed the Company \$50,000 on October 1, 2010. As of November 30, 2012 and the November 30, 2011, Germany paid the Company \$0 and \$9,769, respectively, and it is reflected in the accompanying consolidated statements of operations. The Company has not recorded any additional revenue associated with the two agreements in the Company s consolidated statements of operations as of November 30, 2012 and 2011, as the collectability is uncertain.

**Employees**

At November 30, 2012, there are 77 full-time employees and 3 part-time employees on the staff of the Company. Additional employees and staff will be hired on an as needed basis. The Company believes its relationship with its employees is good. None of our employees are members of any labor union, and we are not a party to any collective bargaining agreement.

**ITEM 1A. RISK FACTORS.**

*You should carefully consider the risks described below before making an investment decision in our securities. These risk factors are effective as of the date of this Form 10-K and shall be deemed to be modified or superseded to the extent that a statement contained in our future filings modifies or replaces such statement. If any of the following risks actually occur, our business, financial condition or results of operations could be materially adversely affected. In that case, the trading price of our stock could decline, and you may lose all or part of your investment.*

**Risks Related to Our Business**

**We may be forced to undertake lengthy and costly efforts to build market acceptance of our umbilical cord blood stem cell storage services, the success of which is critical to our profitability.**

We anticipate that service fees from the processing and storage of umbilical cord blood stem cells will comprise a substantial majority of our revenue in the future and, therefore, our future success depends on the successful and continued market acceptance of this service. Broad use and acceptance of our service requires marketing expenditures and education and awareness of consumers and medical practitioners, and the time and expense required to educate and build awareness of our services and its potential benefits could significantly delay market acceptance and our ultimate profitability. Further sales of our services will also require that we satisfactorily address the needs of obstetricians and family medicine practitioners in order to address potential resistance to recommendations for our services and ultimately reach our potential consumers.

**Market acceptance of our menstrual stem cell service will require publication of scientific studies, consumer awareness, and the development of new therapies from the menstrual stem cell technology, none of which are certain.**

The launch of the menstrual stem cell service in November 2007 was a soft launch , prior to the commencement of full marketing efforts and before the publication of full scientific research. Therefore,

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sales of the menstrual stem cell service have only been on a preliminary basis. Market acceptance of this service will depend on several factors, none of which is certain. First, media attention and success with new customers will depend on publication of scientific data that support the regenerative capabilities of our menstrual stem cells. We are working with researchers who are endeavoring to publish data to support these claims; however, there is no assurance that multiple studies will be accepted for publication, that the content of these publications will attract media attention or customer acceptance, and the timing of any publications is not certain. Second, the success of this business will depend upon the effectiveness of our consumer marketing efforts, and the efforts of our sales force to build awareness among medical professionals who would encourage women to purchase these services. Third, the long-term growth of this business will depend on the development and commercialization of effective therapies derived from these stem cells. Such development is subject to many factors, such as development and protection of intellectual property, regulatory approvals and commercialization factors. There is no assurance that such therapies and products can be successfully developed.

### **The successful development of new therapies from the menstrual stem cell technology will depend on overcoming a variety of challenges.**

The Company is protecting intellectual property relating to various medical therapies and applications relating to its proprietary menstrual stem cells. Successful development of products and other applications will depend on many factors, such as development and protection of intellectual property, regulatory approvals and commercialization factors. The Company will also be reliant on the efforts of joint venture partners, researchers and others for such development. There is no assurance that such therapies and products can be successfully developed.

### **Any new services relating to new types of stem cells have not yet been offered commercially, and there is no assurance that such services or other stem cell services will be launched or will gain market acceptance.**

We have not yet commercially launched services relating to fetal placental stem cells, MPSCs or other new types of stem cells other than the menstrual stem cell, reproductive tissue storage and cord tissue services. Such commercial launches are subject to certain developments, including completion of clinical validation and testing. There can be no assurance that completion of these developments will be successful or that any new services will ever be commercially launched. The Company continues to work on other intellectual property, to explore new technologies related to other types of stem cells that could potentially lead to new products or services. However, further development is necessary before we can announce commercialization plans. There can be no assurance that such development will be successful or that such commercial services will ever be launched. Such service offerings will be new and untested, and there is no assurance that, if launched, they would gain market acceptance. Unlike umbilical cord blood stem cells, fetal placental stem cells, MPSCs and any other new stem cells that may be offered have not yet been used in human therapies. Market acceptance of such new services will depend upon the willingness of prospective parents to pay for the processing and storage of such cells based upon the possibility that such treatments will be discovered in the future. Further, if there are setbacks in medical and scientific research relating to treatment applications for new types of cells, this may adversely affect our future sales, if any, of these services.

### **Our stem cell storage business is susceptible to deteriorations in economic conditions and consumer confidence.**

Our stem cell storage business is subject to the impact of deteriorating economic conditions, lower consumer confidence and restricted access to credit. Any of these conditions in the U.S. economy may adversely affect customers' decisions to use our preservation and storage services or to continue making payments on existing storage contracts. These factors may adversely affect our revenues and cash flows in future periods. Because consumer spending for the processing and storage of umbilical cord blood stem cells and menstrual stem cells can generally be considered a discretionary purchase, we may

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experience a more negative impact on our business due to these conditions than other companies that do not depend on discretionary spending. We have experienced an increase in bad debt expense which we believe is primarily a result of the economy and we have also increased our use of discounts and promotions to attract returning and new clients in light of economic conditions. Deteriorating global economic conditions may affect our revenues from our foreign licensees and distributors and may make it more difficult to sign additional license and distribution agreements in foreign countries. If these factors adversely affect our revenues, this could have a material adverse effect on our results of operations and financial condition.

### **Changes in the cord blood storage technologies could render our services less desirable or obsolete.**

Our storage facilities could be rendered less desirable or obsolete in the future by technological advances in cryopreservation technologies. Other cord blood banks may have better technologies than ours for preserving the cord blood units collected to facilitate future harvest of stem cells contained in the cord blood. To effectively compete in the future, we may need to invest significant financial resources to keep pace with technological advances in cord blood storage technologies. If we fail to respond rapidly to changing technologies it could have a material and adverse impact on our business and cause our revenues to decline. Any significant capital requirements could adversely affect our profitability because we may not be able to pass the costs onto our clients.

### **We operate in a regulated environment, and our failure to comply with applicable regulations, registrations and approvals could materially and adversely affect our business.**

Companies, such as Cryo-Cell, engaged in the recovery, processing, storage, labeling, packaging or distribution of any Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps) or the screening or testing of a cell tissue donor are required to register with the FDA. Additionally, the FDA has adopted rules that regulate current Good Tissues Practices (cGTP). Future FDA regulations could adversely impact or limit our ability to market or perform our services. Failure to comply with applicable regulatory requirements can result in, among other things, injunctions, operating restrictions, and civil fines and criminal prosecution. Delays or failure to obtain registrations could have a material adverse effect on the marketing and sales of our services and impair our ability to operate profitably in the future.

### **International licenses of our technology and services account for a portion of our income, and the continued success of our involvement in those arrangements involves unique risks.**

As of November 30, 2012, the Company had fourteen active license agreements with affiliates in 15 countries. Our international licensing activities accounted for \$1,341,818 and \$1,363,705 of licensee income for the years ended November 30, 2012 and 2011, respectively, of which two affiliates, Mexico and India, accounted for approximately \$1,297,000 and \$1,273,000 of such licensee income for the years ended November 30, 2012 and 2011, respectively. On August 19, 2011, the Company received notification from Mexico that they were terminating the license agreement effective immediately due to an alleged breach of the license agreement. On October 17, 2011, the Company and Mexico entered into an amendment to the license agreement whereby the termination has been revoked and Mexico will pay the Company \$1,863,000 in 37 monthly installments of \$50,000 beginning on October 17, 2011 with a final payment of \$13,000. Mexico will have no other continuing obligations to the Company for royalties or other license payments and the agreement will be effectively terminated once the entire \$1,863,000 has been received. The amendment will result in a reduction of licensee income in future periods. Our international business activities present a number of challenges. Specifically, our growth and future license income and return on investments from these sources will face the following challenges, among others:

Local laws may not provide the same degree of protection against infringement of our intellectual property rights;

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Local laws and business practices could prevent our business from operating or favor local competitors;

It may be difficult and time consuming to locate local organizations, with whom to partner, that are capable of undertaking and sustaining operations;

We may be forced to incur significant expenses related to entering into licensing and investment arrangements in new foreign markets; and

Because the majority of our international license fees are currently denominated in U.S. dollars, an increase in the value of the U.S. dollar relative to foreign currencies could make our services less competitive in international markets.

To the extent our license agreements are exclusive we are dependent solely on the success of the particular licensee.

We may encounter difficulties and expense in enforcing our international licensing agreements.

If we are unable to meet and overcome these challenges, our international growth may slow, be limited, or be altogether unsuccessful.

Further, certain of our international license agreements provide for an annual and overall cap on royalty payments, however we do not anticipate reaching the cumulative maximum royalty payments for a number of years.

**We may be unable to protect our intellectual property from infringement by third parties, and third parties may claim that we infringe on their intellectual property, either of which could materially and adversely affect the Company.**

We rely upon patent protection, trade secrets, technical know-how and continuing technological innovation to develop and maintain our competitive position, and we typically require our employees, consultants and advisors to execute confidentiality and assignment of inventions agreements in connection with their employment, consulting or advisory relationships. There can be no assurance, however, that these agreements will not be breached or that we will have adequate remedies for any such breach.

Despite our efforts to protect our intellectual property, third parties may infringe or misappropriate our intellectual property or may develop intellectual property competitive to ours. Our competitors may independently develop similar technology, duplicate our processes, products or services or design around our intellectual property rights. As a result, we may have to litigate to enforce and protect our intellectual property rights to determine their scope, validity or enforceability. Intellectual property litigation is particularly expensive, time-consuming, diverts the attention of management and technical personnel and could result in substantial cost and uncertainty regarding our future viability. The loss of intellectual property protection or the inability to secure or enforce intellectual property protection would limit our ability to produce and/or market our products in the future and would likely have an adverse effect on the revenues generated by the sale or license of such intellectual property. Furthermore, any public announcements related to such litigation or regulatory proceedings could adversely affect the price of our common stock.

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We also may be subject to costly litigation in the event our products or technology infringe upon another party's proprietary rights. Third parties may have, or may eventually be issued, patents that would be infringed by our technology. Any of these third parties could make a claim of infringement against us with respect to our technology. We may also be subject to claims by third parties for breach of copyright, trademark or license usage rights. Any such claims and any resulting litigation could subject us to significant liability for damages. An adverse determination in any litigation of this type could require us to design around a third party's patent, license alternative technology from another party or otherwise result in limitations in our ability to use the intellectual property subject to such claims.

### **The cord blood stem cell preservation market is increasingly competitive and we compete against both private and public cord blood banks.**

Cord blood stem cell preservation is an increasingly competitive business. Our business faces competition from other private and public operators of stem cell preservation businesses and providers of stem storage services. Currently, the Company competes against approximately 25 other national private cord blood banks. Some of these companies are competitors who as privately owned entities, can leverage considerable resources to market and sell their services. Other competitors are affiliates of publicly traded corporations. These competitors may have access to greater financial resources. In addition, established companies with greater access to financial resources may enter our markets and compete with us. Finally, there are numerous public cord blood banks both in the U.S. and internationally and since public cord blood banks typically do not charge fees for collection and storage they negatively impact our business especially in difficult economic times as consumers may elect to utilize public versus private cord blood banking for initial affordability.

In the event that we are not able to compete successfully with our current or potential competitors, it may be difficult for us to grow our revenue and maintain our existing business without incurring significant additional expenses to try and refine our technology, services or approach to our business to better compete, and even then there would be no guarantee of success.

### **Because our industry is subject to rapid technological and therapeutic changes, our future success will materially depend on the continued viability of the use of cord blood stem cells.**

Our success materially depends on the continued viability of cord blood stem cells for developing therapeutic treatments and cures for disease. The broader medical and research environment for such treatments and cures critically affects the utility of stem cells, the services we offer to the public, and our future success. The use of stem cells in the treatment of disease is subject to potentially revolutionary technological, medical and therapeutic changes. Future technological and medical developments could render the use of stem cells and our services and equipment obsolete and unmarketable. As a result, there can be no assurance that our services will provide competitive advantages over other technologies. If technological or medical developments arise that materially alter the commercial viability of our technology or services, we may be forced to incur significant costs in replacing or modifying equipment in which we have already made a substantial investment prior to the end of its anticipated useful life. Alternatively, significant advances may be made in other treatment methods or in disease prevention techniques which could significantly reduce or entirely eliminate the need for the services we provide. The materialization of any of these risks could have a material adverse effect on our business, financial condition and results of operations.

In connection with our offering of the menstrual stem cell service and development of new therapies and products using the menstrual stem cells, there is no assurance that future developments in stem cell technology will not render these services, therapies and products obsolete. Such developments would adversely affect the future revenues we expect to derive from these services, therapies and products.

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### **Our information systems are critical to our business, and a failure of those systems could have a materially adverse effect on the Company's business, financial condition and reputation.**

We depend on our ability to store, retrieve, process, and manage a significant amount of information through our computer systems. Like most computer systems, our systems are subject to the risks of failure, computer viruses, and unauthorized individuals (hackers) obtaining access to and inadvertently or purposefully damaging them. The Company believes the security systems and virus-detection controls we have implemented significantly reduce these risks. If our computer systems nonetheless fail or are compromised, sensitive information regarding our customers may become publicly available. In such an event, we may be exposed to liability from customers, may lose customers and may suffer significant damage to our business reputation. We are currently in the process of switching over to a new and improved platform but there can be no assurance that it will be successful. Any of these events could have a materially adverse effect on our business and financial condition.

### **A failure in the performance of our cryopreservation storage facility or systems could harm our business and reputation.**

To the extent our cryopreservation storage service is disrupted, discontinued or the performance is impaired, our business and operations could be adversely affected. We store approximately 145,000 specimens in Oldsmar, Florida and Florida is susceptible to hurricanes. Any failure, including network, software or hardware or equipment failure, that causes a material interruption or discontinuance in our cryopreservation storage of stem cell specimens could result in stored specimens being damaged and unable to be utilized. Specimen damage could result in litigation against us and reduced future revenue to us, which in turn could be harmful to our reputation. Our insurance may not adequately compensate us for any losses that may occur due to any failures in our system or interruptions in our ability to maintain proper, continued, cryopreservation storage services. Any material disruption in our ability to maintain continued uninterrupted storage systems could have a material adverse effect on our business, operating results and financial condition. Our systems and operations are vulnerable to damage or interruption from fire, flood, equipment failure, break-ins, hurricanes, tornadoes and similar events for which we do not have redundant systems or a formal disaster recovery plan and may not carry sufficient business interruption insurance to compensate us for losses that may occur.

### **We may be required to spend substantial time, money and effort to comply with legislative and regulatory initiatives relating to patient privacy.**

There are government regulations addressing patient information privacy and security concerns that impact our business. In particular, regulations issued under the Health Insurance Portability and Accountability Act of 1996, or HIPAA, and the Health Information Technology for Economic and Clinical Health Act, or HITECH, contain provisions that require us to adopt business procedures designed to protect the privacy of each of our patients' individual health information. We may be required to spend substantial time, money and effort on compliance measures. The HIPAA regulations expose us to increased regulatory risk if we fail to comply. If we fail to comply with the HIPAA regulations, we could suffer civil penalties. The civil penalties could include monetary penalties ranging from \$100 per violation to \$1.5 million depending on the level of violation.

### **Our failure to comply with laws related to hazardous materials could materially harm us.**

We are subject to state and federal laws regulating the protection of employees who may be exposed to hazardous material and regulating the proper handling and disposal of that material. Although we believe we are in compliance with all such applicable laws, a violation of such laws, or the future enactment of more stringent laws or regulations, could subject us to liability, or require us to incur costs that would have an adverse effect on us.

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### **We depend on the services of our senior management for our success and must retain and attract other highly skilled personnel to maintain and grow our business.**

Our performance and success is substantially dependent on the continued services and on the performance of our senior management. Our performance and success also depends on our ability to retain and motivate our other key employees. The services of our Chairman and Co-Chief Executive Officer, David Portnoy, our Co-Chief Executive Officer, Mark Portnoy, our Vice President, Finance and Chief Financial Officer, Jill Taymans, our Chief Scientific Officer, Linda Kelley, Ph.D, and our Chief Information Officer, Oleg Mikulinsky are important to our ability to implement our business strategy and a loss of their services could harm our business. We have entered into employment agreements with Mr. David Portnoy, Mr. Mark Portnoy, Ms. Taymans, Dr. Kelley and Mr. Mikulinsky. The Company does not carry key-person life insurance on these individuals. Our future performance and success also depends on our ability to identify, attract, hire, train, retain and motivate highly skilled personnel. If we fail to attract, integrate and retain the necessary personnel, our ability to successfully maintain and build our business could suffer significantly.

### **Our warranty program could subject us to claims in the future that could have a material impact on our financial results**

In December 2005, we began providing clients enrolled under the new pricing structure with a payment warranty under which we agree to pay \$50,000 to the client if the umbilical cord blood product retrieved is used for a stem cell transplant for the donor or an immediate family member and fails to engraft, subject to various restrictions. The payment warranty increased to \$75,000 effective February 1, 2012. Additionally, under the Cryo-Cell Cares™ program, we will pay \$10,000 to the client to offset personal expenses if the umbilical cord blood product is used for bone marrow reconstitution in a myeloblastic transplant procedure. While we have not experienced any claims under the warranty program nor have we incurred costs related to these warranties, we could be subject to a significant number of claims in the future that could require us to pay out substantial sums that could have a material adverse impact on our financial results. We do not maintain insurance for this warranty program but we do maintain reserves to cover our estimated potential liabilities. However, we cannot provide assurances that the reserves are adequate.

### **Risks Related to Our Common Stock**

#### **Our common stock price may be volatile and our trading volume low and as a result you may not be able to resell your shares of our common stock at or above the price you paid.**

The market price for our common stock is likely to be highly volatile and is likely to experience wide fluctuations in response to factors including the following:

actual or anticipated variations in our quarterly operating results;

announcements of technological innovations or new services by us or our competitors;

changes in financial estimates by securities analysts;

conditions or trends in the stem cell preservation business;

changes in the economic performance or market valuations of other stem cell storage companies;

announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments;



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additions or departures of key personnel;

sales of additional shares of common stock by us;

adverse results on existing or potential new litigation;

investor perceptions of us and the stem cell preservation business;

general economic trends and market conditions;

adverse announcements by our competitors; and

adverse publicity.

Broad market and industry factors may adversely affect the market price of our common stock, regardless of our actual operating performance. Also, the daily trading volume of our common stock has historically been relatively low. Over the past two years, the price of our common stock has fluctuated from a high of \$3.67 to a low of \$1.66. To the extent our stock price fluctuates, it could impair our ability to raise capital through the offering of additional equity securities. As a result, holders of our common stock may not be able to resell their stock at or above the price at which they purchase it.

**Our common stock trades in an illiquid market, which may make it difficult for you to sell your shares at times and prices you believe to be appropriate.**

Trading of our common stock is conducted on the OTC Bulletin Board. This has an adverse effect on the liquidity of our common stock, not only in terms of the number of shares that can be bought and sold at a given price, but also through delays in the timing of transactions and reduction in securities analysts' and the media's coverage of our Company and its common stock. This may result in lower prices for our common stock than might otherwise be obtained and could also result in a larger spread between the bid and asked prices for our common stock. In addition, if at any time the trading price of our stock is below \$5.00 per share it is subject to the SEC's penny stock rules. Because the penny stock rules impose certain requirements on brokers, they may be less willing to execute transactions in our securities. Furthermore, because of the limited market and generally low volume of trading in our common stock, our common stock is more likely to be affected by broad market fluctuations, general market conditions, fluctuations in our operating results, changes in the market's perception of our business, and announcements made by us, our competitors or parties with whom we have business relationships. Our ability to issue additional securities for financing or other purposes, or to otherwise arrange for any financing we may need in the future, may also be materially and adversely affected by the fact that our securities are not traded on a national securities exchange.

**Our board of directors has the authority to issue preferred stock, which could deter takeover bids even if those bids are in the stockholders' best interests.**

We have 500,000 shares of authorized and unissued preferred stock, which could be issued to third parties selected by management or used as the basis for a stockholders' rights plan, which could have the effect of deterring potential acquirers. The ability of our Board of Directors to establish the terms and provisions of different series of preferred stock could discourage unsolicited takeover bids from third parties even if shareholders believe that those bids are in the shareholders' best interests. Further, the issuance of additional shares having preferential rights could adversely affect other rights appurtenant to shares of our common stock.

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### **We could issue authorized but unissued shares of common stock which could negatively impact the price of our stock.**

Our board of directors has authority, without action or vote of our stockholders, to issue all or a part of our authorized but unissued shares. Such stock issuances could be made at a price that reflects a discount or a premium from the then-current trading price of our common stock. In addition, if we need to raise capital, we may need to issue securities that are convertible into or exchangeable for a significant amount of our common stock. These issuances would dilute your percentage ownership interest, which would have the effect of reducing your influence on matters on which our shareholders vote, and might dilute the book value of our common stock. You may incur additional dilution if holders of stock options, whether currently outstanding or subsequently granted, exercise their options to purchase shares of our common stock.

### **We do not currently pay dividends on our common stock.**

To date, we have not paid any cash dividends and do not anticipate the payment of cash dividends in the immediate future. Accordingly, the only return on an investment in shares of our common stock, if any, may occur upon a subsequent sale of such shares.

### **ITEM 1B. UNRESOLVED STAFF COMMENTS.**

Not applicable.

### **ITEM 2. PROPERTIES.**

The Company entered into a ten-year lease in April 2004 for its 17,600 square foot cGMP/cGTP compliant corporate headquarters in Oldsmar, Florida for rent of approximately \$141,000 per year for each of the first two years and escalating thereafter. The lease effectively commenced during October 2004, and the Company moved into this facility in November 2004. This facility contains the Company's executive offices, its conference and training center, its laboratory processing and cryogenic storage facility and its scientific offices.

On June 7, 2006, the Company entered into a lease amendment, which amends the Company's lease for its principal offices in Oldsmar, Florida. The original lease covered approximately 17,600 square feet of space. Under the amendment, the Company leased an additional 9,600 square feet of space at the same location, beginning on August 1, 2006 and ending with the termination of the lease in 2015. The Company's rent for the additional space is \$11,032 per month through July 31, 2009, with annual increases thereafter through the entire lease term to a maximum of \$13,176 per month for the additional space.

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

On December 16, 2010, the Company filed an action in the Circuit Court in Pinellas County, Florida against Cord Blood America, Inc. ( CBAI ) seeking an injunction against consummation of the proposed acquisition by CBAI of the assets of Cryo-Cell de Mexico, S.A. de C.V. ( CCMEX ), the Company's exclusive licensee in Mexico. The action is docketed at Civil No. 10-17412-CI-20. The Company believes that the proposed acquisition would violate its License Agreement with CCMEX. CBAI announced on December 8, 2010 that it had entered into a letter of intent for the proposed acquisition with CCMEX on December 3, 2010.

The Company also filed a motion for a temporary injunction. CBAI filed a motion to dismiss on the ground that CCMEX was an indispensable party to the action. After a hearing on January 14, 2011, the court granted the motion to dismiss, allowing the Company to join CCMEX to the action, and setting a hearing on February 25, 2011 on the Company's motion for an injunction. On January 20, 2011, the Company filed an amended complaint alleging tortious interference with a business relationship by

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CBAI, misappropriation of trade secrets and confidential information in violation of the Florida Uniform Trade Secrets Act by CBAI, dilution of trademark in violation of Florida Statute Section 495.151 by CBAI, common law unfair competition against CBAI, breach of license agreement by CCMEX and unfair and deceptive trade practices in violation of the Florida Unfair and Deceptive Trade Practices Act by CCMEX and CBAI. The amended complaint sought damages against CBAI and CCMEX and injunctive relief. After CCMEX was joined to the action, both defendants filed motions to dismiss, and the injunction hearing has been continued. On March 18, 2011, the court granted the motions to dismiss filed by CBAI and CCMEX. The court granted the motion for a rehearing filed by the Company. On September 7, 2011, the court granted the motions to dismiss filed by CBAI and CCMEX. The Company did not file an appeal.

On October 25, 2011, Mercedes Walton, the Company's former Chairman and Chief Executive Officer, filed a demand for arbitration with the American Arbitration Association. Ms. Walton is claiming breach of her employment agreement and defamation. Ms. Walton is seeking arbitration costs, attorneys' fees, interest, compensatory, punitive and liquidated damages, as well as injunctive and declaratory relief in the amount of \$5,000,000 of which potentially \$1,000,000 would be covered by the Company's insurance policy. On August 31, 2011, the newly elected Board of Directors of the Company terminated its Chief Executive Officer and former Chairman of the Board of Directors, Ms. Walton for cause. In accordance with Ms. Walton's employment agreement dated August 15, 2005, as amended July 16, 2007, Ms. Walton could be entitled to severance in the amount up to \$950,000 related to lost salary, bonuses and benefits. In addition, the Company could be required to pay all reasonable legal fees and expenses incurred by Ms. Walton as a result of the termination, as well as outplacement services. The Company has recorded an accrual in the amount of \$950,000 related to this severance agreement. Given the fact that Ms. Walton was terminated for cause, the Company believes that Ms. Walton has not earned the right to this severance and intends to defend itself against this agreement. The initial hearing took place during the week of February 4, 2013. The hearing is scheduled to reconvene on March 19, 2013.

On May 26, 2011, a complaint for monetary damages was served against the Company. The complaint did not specify the amount claimed, other than stating that it is more than \$75,000 which is the jurisdictional amount of the court the complaint was filed in. At this time, it is not possible for the Company to estimate the loss or the range of possible loss, due to the current early stage of the litigation, the meaningful legal uncertainties associated with the claim and the fact that the complaint did not specify the amount of damages sought. No amounts have been accrued as of November 30, 2012. The Company believes it has meritorious defenses to the claims and intends to vigorously defend itself, however, the ultimate resolution of this complaint is uncertain at this time. A trial has been scheduled for September 3, 2013.

In addition, from time to time the Company is subject to proceedings, lawsuits, contract disputes and other claims in the normal course of its business. The Company believes that the ultimate resolution of current matters should not have a material adverse effect on the Company's business, consolidated financial position or results of operations. It is possible, however, that there could be an unfavorable ultimate outcome for or resolution which could be material to the Company's results of operations for a particular quarterly reporting period. Litigation is inherently uncertain and there can be no assurance that the Company will prevail. The Company does not include an estimate of legal fees and other related defense costs in its estimate of loss contingencies.

**ITEM 4. MINE SAFETY DISCLOSURES - Not Applicable**

**Table of Contents****PART II****ITEM 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

The Company's common stock is quoted on the Over-The-Counter Bulletin Board under the symbol "CCEL". The following table shows, for the calendar periods indicated, the high and low closing bid quotations for the Company's common stock as reported by Yahoo Finance. The quotations represent inter-dealer prices without retail mark-up, markdown or commission and may not represent actual transactions.

| Quarter Ended     | Low Closing Bid | High Closing Bid |
|-------------------|-----------------|------------------|
| February 29, 2012 | 1.70            | 2.50             |
| May 31, 2012      | 2.01            | 2.52             |
| August 31, 2012   | 1.80            | 2.45             |
| November 30, 2012 | 2.09            | 2.57             |
| February 28, 2011 | 1.55            | 2.45             |
| May 31, 2011      | 2.02            | 3.67             |
| August 31, 2011   | 2.35            | 3.42             |
| November 30, 2011 | 1.66            | 2.90             |

The Company has not declared any cash dividends on its common stock and has no plans to do so in the immediate future.

As of November 30, 2012, the Company had 276 shareholders of record, and management believes there are approximately 2,500 additional beneficial holders of the Company's common stock.

The following table sets forth as of November 30, 2012 the Company's equity compensation plans approved by shareholders. At such date the Company had no equity Compensation Plans that had not been approved by shareholders.

| Equity Compensation plans approved by stockholders      | Number of securities to be issued upon exercise of outstanding options, warrants and rights | Weighted-average exercise price of outstanding options, warrants and rights | Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in the first column) |
|---|---|---|---|
| Cryo-Cell International 2000 Stock Incentive Plan       | 60,589  | \$ 2.66   | (1)   |
| Cryo-Cell International, Inc. 2006 Stock Incentive Plan | 762,509   | \$ 2.33   | 151,345   |
| Cryo-Cell International, Inc. 2012 Stock Incentive Plan | 1,000,000   | \$ 1.72   | 1,500,000   |
| Total   | 1,823,098   | \$ 2.01   | 1,651,345   |

(1) No further stock options or other awards will be granted under the 2000 Stock Incentive Plan.

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**ITEM 6. SELECTED FINANCIAL DATA**

Not Applicable.

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

The following discussion and analysis of the financial condition and results of operations of the Company for the two years ended November 30, 2012, should be read in conjunction with the consolidated financial statements and related notes as well as other information contained in this Annual Report on Form 10-K. This section of the Form 10-K contains forward-looking statements that involve substantial risks and uncertainties, such as statements about our plans, objectives, expectations and intentions. We use words such as expect, anticipate, plan, believe, seek, estimate, intend, future and similar expressions to identify forward-looking statements. Our actual results could differ materially from those anticipated in these forward-looking statements for many reasons, including as a result of some of the factors described below and in the section titled Risk Factors. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this Form 10-K.

**Overview**

The Company is engaged in cellular processing and cryogenic storage, with a current focus on the collection and preservation of umbilical cord blood stem cells for family use. The Company's principal sources of revenues are service fees for cord blood processing and preservation for new customers and recurring annual storage fees. Effective February 1, 2012, the Company charges fees of \$2,074 to new clients for the collection kit, processing and testing and return medical courier service, with discounts in the case of multiple children from the same family and in other circumstances. The Company currently charges an annual storage fee of \$125 for new clients; storage fees for existing customers depend on the contracts with such customers. The Company also offers a one-time payment plan, where the client is charged \$3,949 less discounts in the case of multiple children from the same family and in other circumstances. The one-time plan includes the collection kit, processing and testing, return medical courier service and 21 years of pre-paid storage fees. The Company also receives other income from licensing fees and royalties from global affiliates.

In recent years, the Company has expanded its research and development activities to develop technologies related to stem cells harvested from sources beyond umbilical cord blood stem cells. In 2006, the Company discovered novel technology related to menstrual stem cells. During 2007, much of the Company's research and development activities focused on the development of proprietary technology related to maternal placental stem cells (MPSCs). In November 2007, the Company announced the commercial launch of the menstrual stem cell service related to this patent-pending technology. The Company continues to focus independently-funded research and development activities through a vast network of research collaboration partners.

In August 2011, there was a change in control of the board of directors. Subsequent to this change, the Company is refocusing its efforts on the Company's umbilical cord blood and cord tissue business while continuing to develop the menstrual stem cell technology.

During the year ended November 30, 2012, the Company's total revenue increased slightly as compared to the same period in 2011. The Company reported a net loss of approximately (\$6,308,000), or (\$.56) per basic common share for fiscal 2012 compared to a net loss of approximately (\$2,096,000) or (\$.18) per basic common share for fiscal 2011. The increase in net loss principally resulted from the cancellation of certain interests in the Illinois Revenue Sharing Agreement, the Bio-Stor Revenue Sharing

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Agreement and the interest in the Revenue Sharing Agreement for the state of New York resulting in extinguishment of debt in the amount of approximately \$1,600,000, a 12% increase in selling, general and administrative expenses, due mainly to an increase in stock option compensation and the increase in sales and marketing initiatives including the implementation of a national sales force. The increase in stock option expense is mainly the result of the Nomination of Solicitation Notice received by the Company nominating six individuals for election as directors to compete with the Company's board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, if the Company receives a Nomination of Solicitation Notice, as defined by the Company's Bylaws, all of the service-based vesting condition options that were issued to the Co-CEOs immediately vest. Included in stock option expense is approximately \$700,000 that is due to the immediate vesting of options issued to the Co-CEOs. Also, during the second quarter of fiscal 2012, the Company reserved approximately \$1.7 million of its deferred income tax assets. The decision to reserve the deferred income tax assets is based on the accounting standards surrounding income taxes that require a company to consider whether it is more likely than not that the deferred tax assets will be realized. The Company has made certain strategic decisions in fiscal 2011 and fiscal 2012 concerning the negotiated termination of some of the perpetual Revenue Sharing Agreements, the impairment of internal use software that is being replaced with a technology platform that is better suited for the Company's business needs and the implementation of a national sales force in order to generate growth and future value for the Company's stockholders. The strategic decisions, as well as the costs associated with the 2011 proxy contest and the accrual of severance associated with termination of the Company's former Chief Executive Officer, resulted in losses in fiscal 2011 and fiscal 2012. Once a company has had cumulative losses in recent years, regardless if the loss was planned for strategic purposes, the accounting standard does not allow the company to put significant reliance on future taxable income projections to overcome the more likely than not threshold that the deferred income tax assets will be realized. This is partially offset by a 30% decrease in interest expense which is a result of the cancellation of certain interests in the Revenue Sharing Agreements. In addition, research and development expenses were approximately \$110,000 for the twelve months ended November 30, 2012, a decrease of approximately \$74,000 or 40% in comparison to the same period in 2011.

As of November 30, 2012, the Company had cash and cash equivalents of \$2,677,382. The Company's cash decreased by approximately \$3,600,000 during fiscal 2012, primarily as a result of the payment of \$3,200,000 for the cancellation of certain interests in certain Revenue Sharing Agreements and the stock repurchase plan pursuant to which the Company has repurchased 792,374 shares of the Company's common stock for approximately \$1,703,000 offset by cash flows from operations and the sale of certain marketable securities. As of November 30, 2012, the Company had no long-term indebtedness.

## **Results of Operations**

**Revenue.** For the fiscal year ended November 30, 2012, the Company had revenue of \$17,969,855 compared to \$17,918,270 for the fiscal year ended November 30, 2011. The increase in revenue was primarily attributable to a slight increase in processing and storage fees, which was partially offset by a 2% decrease in licensee income.

**Processing and Storage Fees.** For fiscal year ended November 30, 2012, processing and storage fees were \$16,628,037 compared to \$16,554,565 for the fiscal year ended November 30, 2011. The increase in processing and storage fee revenue is primarily attributable to an 8% increase in recurring annual storage fee revenue and a decrease in sales discounts of 23% for fiscal 2012 compared to the 2011 period. Sales discounts represent discounts to returning clients and promotions offered to newly enrolled clients from time to time. The Company had a 12% decrease in the number of new specimens processed year-over-year, however, the average selling price per newly enrolled client has increased with the implementation of the price increase during fiscal 2012 resulting in higher net revenues per specimen. Also, the decrease in the number of new specimens processed is offset by the increase in the Company's new cord tissue service.

**Licensee Income.** For the fiscal year ended November 30, 2012, licensee income was \$1,341,818 as compared to \$1,363,705 for the 2011 period. Licensee income for the fiscal year ended November 30, 2012 primarily consisted of \$1,296,818 in royalty income earned on the processing and storage of cord blood stem cell specimens in geographic areas where the Company has license agreements. The remaining licensee income of \$45,000 related to installment payments of non-refundable up-front license fees from the licensees of the Company's umbilical cord blood program in Costa Rica and Nicaragua. Licensee income for the fiscal year ended November 30, 2011 primarily consisted of \$1,322,953 in royalty income

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earned on the processing and storage of cord blood stem cell specimens in geographic areas where the Company has license agreements. The remaining licensee income of \$40,752 related to installment payments of non-refundable up-front license fees from the licensees of the Company's umbilical cord blood program in Costa Rica, Nicaragua and Germany.

**Cost of Sales.** For the fiscal year ended November 30, 2012, cost of sales was \$4,888,414, as compared to \$4,399,444 for the fiscal year ended November 30, 2011, representing an 11% increase. Cost of sales was 27% and 25% of revenues in fiscal 2012 and 2011, respectively. Cost of sales includes wages and supplies associated with process enhancements to the existing production procedures and quality systems in the processing of cord blood specimens at the Company's facility in Oldsmar, Florida and depreciation expense of \$210,052 for the year ended November 30, 2012 compared to \$218,614 for the 2011 period.

**Selling, General and Administrative Expenses.** Selling, general and administrative expenses during the fiscal year ended November 30, 2012 were \$14,426,444 as compared to \$12,413,082 for the fiscal year ended November 30, 2011 representing a 16% increase. These expenses are primarily comprised of expenses for consumer advertising, salaries and wages for personnel and professional fees. The increase in selling, general and administrative expenses is primarily due to an increase of approximately \$2,300,000 or 62% in sales and marketing due to the Company's new sales and marketing initiatives including the implementation of a national sales force and an increase of approximately \$996,000 in noncash stock option expense. The increase in stock option expense is mainly the result of the Nomination of Solicitation Notice received by the Company nominating six individuals for election as directors to compete with the Company's board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, if the Company receives a Nomination of Solicitation Notice, as defined by the Company's Bylaws, all of the service-based vesting condition options that were issued to the Co-CEOs immediately vest. Included in stock option expense is approximately \$700,000 that is due to the immediate vesting of options issued to the Co-CEOs. The increase in selling, general and administrative expenses was partially offset by an approximate \$392,000 or 44% decrease in legal fees and a decrease of approximately \$700,000 or 73% in fees associated with the annual meeting. The fees associated with the 2012 Annual Meeting were approximately \$256,000 compared to approximately \$957,000 for the 2011 Annual Meeting. The total fees expended for the 2011 Annual Meeting included the reimbursement by the Company to the Portnoy Group of its costs associated with the 2007 and 2011 Annual Meetings of approximately \$528,000. In addition to this reimbursement, the Company incurred approximately \$429,000 in fees associated with the 2011 Annual Meeting. Also included in selling, general and administrative expenses for the twelve months ended November 30, 2011 was an approximate \$950,000 accrual of severance in accordance with Mercedes Walton's, the Company's former Chairman and CEO employment agreement dated August 15, 2005, as amended July 16, 2007. Per the employment agreement, Ms. Walton could be entitled to severance in the amount up to \$950,000 related to lost salary, bonuses and benefits. The Company believes that Ms. Walton was terminated for cause and therefore, the Company believes that Ms. Walton has not earned the right to this severance and intends to defend itself against the agreement.

**Research, Development and Related Engineering Expenses.** Research, development and related engineering expenses for the fiscal year ended November 30, 2012, were \$109,640 as compared to \$184,047 in 2011. The expenses for the years ended November 30, 2012 and 2011 are primarily comprised of expenses related to the implementation of the Company's cord tissue service and the continued commercialization of the Company's new menstrual stem cell technology, which was launched in November 2007.

**Impairment of Internal Use Software.** During fiscal 2011, the Company determined that previously capitalized costs associated with the development of internal use computer software would be of no further use to the Company and should be written off. The asset is fully impaired and this decision resulted in an impairment charge during fiscal 2011 in the amount of \$627,034.

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**Abandonment of Patents.** During 2012 and 2011, management decided to discontinue pursuing certain patents and trademarks resulting in a write-off of approximately \$53,000 and \$211,000, respectively, for abandoned patents and trademarks which is reflected as abandonment of patents in the accompanying consolidated statement of operations for the years ended November 30, 2012 and November 30, 2011.

**Depreciation and Amortization.** Depreciation and amortization (not included in Cost of Sales) for the year ended November 30, 2012 was \$204,149 compared to \$361,234 for the 2011 period. The decrease was caused by a portion of the Company's property and equipment becoming fully depreciated during fiscal 2011.

**Extinguishment of Revenue Sharing Agreements.** During the twelve months ended November 30, 2012, the Company entered into Asset Purchase Agreements with certain investors canceling their respective Revenue Sharing Agreements. Pursuant to the terms of the Asset Purchase Agreements, the Company made one-time, lump-sum payments in the amount of \$3,248,000 to the investors and the investors sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in their interests in the RSAs. The total payment amount of \$3,248,000 was offset by the carrying amount of the liability related to the Revenue Sharing Agreements in the amount of \$1,450,000 and an accrued expense in the amount of \$202,394 to reflect the extinguishment of revenue sharing agreements in the amount of \$1,595,606 for the twelve months ended November 30, 2012.

**Interest Expense.** Interest expense during the fiscal year ended November 30, 2012, was \$1,022,429 compared to \$1,456,737 in 2011. The decrease is mainly due to the extinguishment of certain revenue sharing agreements during fiscal 2012. Interest expense is mainly comprised of amounts due to the parties to the Company's revenue sharing agreements (RSAs) based on the Company's storage revenue. If the Company's storage revenues continue to increase in areas covered by RSAs, the Company's interest expense related to the RSA payments will also increase. Also included in interest expense is the amortization of the present value of a deferred consulting agreement in the amount of \$1,663 and \$9,128 for the years ended November 30, 2012 and 2011, respectively. During the third quarter of fiscal 2012, the Company fulfilled its obligation of the deferred consulting agreement.

**Equity in Losses of Affiliate.** Equity in losses of affiliate was \$154,564 for the fiscal year ended November 30, 2012 compared to \$227,016 in 2011. Equity in losses of affiliate for the year ended November 30, 2012 solely consists of amounts related to compensation expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and serve on its board of directors. Equity in losses of affiliate for the year ended November 30, 2011 consists of approximately \$133,000 related to compensation expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and serve on its board of directors as well as approximately \$94,000 of historical losses from Saneron that have been realized in prior periods and were not material to any periods presented.

**Income Taxes.** The Company records foreign income taxes withheld from installment payments of non-refundable up-front license fees and royalty income earned on the processing and storage of cord blood stem cell specimens in certain geographic areas where the Company has license agreements. The Company recorded approximately \$169,000 and \$172,000 for the years ended November 30, 2012 and 2011, respectively, of foreign income tax expense, which is included in income tax expense in the accompanying consolidated statements of operations.

The Company has made certain strategic decisions during 2011 and 2012 concerning the negotiated termination of some of the perpetual Revenue Sharing Agreements (RSAs), the impairment of internal use software that is being replaced with a technology platform that is better suited for the Company's business needs and the implementation of a national sales force in order to generate growth and future value for the Company's stockholders. These strategic decisions, including the decision to terminate the former CEO's employment, resulted in losses in fiscal 2011 and fiscal 2012. The accounting standards surrounding income taxes require a company to consider whether it is more likely than not that the



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deferred income tax assets will be realized. Once a company has had cumulative losses in recent years, regardless of the nature of the loss, the accounting standards do not allow the Company to put significant reliance on future taxable income projections to overcome the more likely than not threshold that the deferred tax assets will be realized.

As a result of the cumulative losses, the Company reserved \$1,718,919 during the second quarter of 2012 resulting in U.S. tax expense being recorded for the fiscal year ended November 30, 2012 due to the Company's decision in the second quarter of 2012 to record a valuation allowance associated with certain of the Company's deferred income tax assets, as it is more likely than not that the deferred income tax assets will not be realized. There was no U.S. income tax expense for fiscal 2011 as the Company incurred a tax loss which resulted in an increase to the net operating loss deferred tax asset, which was offset by an increase to the valuation allowance.

The effective tax rate of 41.1% and 8.2% for the fiscal years ended November 30, 2012 and 2011, respectively, differs from the statutory rate, due primarily to the establishment of a full valuation allowance of approximately \$1,719,000 during 2012 and the effect of foreign income taxes related to licensee income in 2012 and 2011.

## **Liquidity and Capital Resources**

Through November 30, 2012, the Company's principal source of cash has been from sales of its umbilical cord blood program to customers, the sale of license agreements and royalties from licensees. The Company does not expect a change in its principal source of cash flow.

At November 30, 2012, the Company had cash and cash equivalents of \$2,677,382 as compared to \$6,305,095 at November 30, 2011. The decrease in cash and cash equivalents in 2012 was primarily attributable to the following:

Net cash provided by operating activities in fiscal 2012 was \$360,901, which was primarily attributable to the Company's operating activities, partially offset by increases in working capital components.

Net cash provided by operating activities in fiscal 2011 was \$819,122, which was primarily attributable to the Company's operating activities.

Net cash provided by investing activities in fiscal 2012 was \$962,356 which was primarily attributable to the sale of marketable securities which was partially offset by the purchase of property and equipment and the investment in patents and trademarks.

Net cash used in investing activities in fiscal 2011 was \$2,964,500 which was primarily attributable to the funding of a trust in the amount of \$2,500,000 to escrow amounts that may become payable to the Company's former Chief Executive Officer and other executive officers of the Company under their respective Employment Agreements as a result of a change in control of the Company pursuant to the proxy contest.

Net cash used in financing activities in fiscal 2012 was \$4,950,970, which was primarily attributable to the payment of \$3,248,000 for the cancellation of certain interests in certain Revenue Sharing Agreements and the stock repurchase plan pursuant to which the Company has repurchased 792,374 shares of the Company's common stock for approximately \$1,703,000.

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Net cash provided by financing activities in fiscal 2011 was \$80,936 due to the exercise of stock options.

The Company does not have a line of credit.

The Company anticipates making discretionary capital expenditures of approximately \$750,000 over the next twelve months for software enhancements and purchases of property and equipment. The Company anticipates funding future property and equipment purchases with cash-on-hand and cash flows from future operations.

The Company anticipates that its cash and cash equivalents, marketable securities and cash flows from future operations will be sufficient to fund its known cash needs for at least the next 12 months. Cash flows from operations will depend primarily upon increasing revenues from sales of its umbilical cord blood and cord tissue cellular storage services and the menstrual stem cell service, and managing discretionary expenses. If expected increases in revenues are not realized, or if expenses are higher than anticipated, the Company may be required to reduce or defer cash expenditures or otherwise manage its cash resources during the next 12 months so that they are sufficient to meet the Company's cash needs for that period. In addition, the Company may consider seeking equity or debt financing if deemed appropriate for its plan of operations, and if such financing can be obtained on acceptable terms. There is no assurance that any reductions in expenditures, if necessary, will not have an adverse effect on the Company's business operations, including sales activities and the development of new services and technology.

## **Critical Accounting Policies and Estimates**

The preparation of consolidated financial statements and related disclosures in conformity with accounting principles generally accepted in the United States requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses and related disclosures of contingent assets and liabilities in the consolidated financial statements and accompanying notes. The SEC has defined a company's critical accounting policies as the ones that are most important to the portrayal of the company's financial condition and results of operations, and which require the company to make its most difficult and subjective judgments, often as a result of the need to make estimates of matters that are inherently uncertain. The Company believes that its estimates and assumptions are reasonable under the circumstances; however, actual results may vary from these estimates and assumptions. We have identified the following critical accounting policies that affect the more significant judgments and estimates used in the preparation of the consolidated financial statements. For further discussion of the Company's significant and critical accounting policies, refer to Note 1 Description of Business and Summary of Critical and Significant Accounting Policies to the Consolidated Financial Statements contained in Item 8 of this document.

## **Revenue Recognition**

### *Revenue Recognition for Arrangements with Multiple Deliverables*

For multi-element arrangements, the Company allocates revenue to all deliverables based on their relative selling prices. In such circumstances, accounting principles establish a hierarchy to determine the selling price to be used for allocating revenue to deliverables as follows: (i) vendor-specific objective evidence of fair value ( VSOE ), (ii) third-party evidence of selling price ( TPE ), and (iii) best estimate of the selling price ( ESP ). VSOE generally exists only when the Company sells the deliverable separately and it is the price actually charged by the Company for that deliverable.

The Company has identified two deliverables generally contained in the arrangements involving the sale of its umbilical cord blood product. The first deliverable is the processing of a specimen. The

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second deliverable is either the annual storage of a specimen or the 21 year storage fee charged for a specimen. The Company has allocated revenue between these deliverables using the relative selling price method. The Company has VSOE for its annual storage fees as the Company renews storage fees annually with its customers on a standalone basis. Because the Company has neither VSOE nor TPE for the processing and 21 year storage deliverables, the allocation of revenue has been based on the Company's ESPs. Amounts allocated to processing a specimen are recognized at the time of sale. Amounts allocated to the storage of a specimen are recognized ratably over the contractual storage period. Any discounts given to the customer are recognized by applying the relative selling price method whereby after the Company determines the selling price to be allocated to each deliverable (processing and storage), the sum of the prices of the deliverables is then compared to the arrangement consideration, and any difference is applied to the separate deliverables ratably.

The Company's process for determining its ESP for deliverables without VSOE or TPE considers multiple factors that may vary depending upon the unique facts and circumstances related to each deliverable. Key factors considered by the Company in developing the ESPs for its processing and 21 year storage fee include the Company's historical pricing practices as well as expected profit margins.

The Company records revenue from processing and storage of specimens and pursuant to agreements with licensees. The Company recognizes revenue from processing fees upon completion of processing and recognizes storage fees ratably over the contractual storage period, as well as, other income from royalties paid by licensees related to long-term storage contracts which the Company has under license agreements. Contracted storage periods can range from one to twenty-one years. Deferred revenue on the accompanying consolidated balance sheets includes the portion of the annual storage fee and the twenty-one year storage fee that is being recognized over the contractual storage period as well as royalties received from foreign licensees related to long-term storage contracts in which the Company has future obligations under the license agreement. The Company classifies deferred revenue as current if the Company expects to recognize the related revenue over the next 12 months. The Company also records revenue within processing and storage fees from shipping and handling billed to customers when earned. Shipping and handling costs that the Company incurs are expensed and included in cost of sales.

The Company has not had a third party conduct a physical inventory count of all specimens stored; however, the Company from time to time will perform a physical inventory count of specimens stored to ensure that all records are accurate.

## **Income Taxes**

Deferred income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred income tax assets and liabilities are measured using enacted tax rates expected to be recovered or settled. The Company has recorded a valuation allowance of \$10,947,000 and \$7,756,000 as of November 30, 2012 and November 30, 2011, respectively, as the Company does not believe it is more likely than not that all future income tax benefits will be realized. When the Company changes its determination as to the amount of deferred income tax assets that can be realized, the valuation allowance is adjusted with a corresponding impact to income tax expense in the period in which such determination is made. The ultimate realization of the Company's deferred income tax assets depends upon generating sufficient taxable income prior to the expiration of the tax attributes. In assessing the need for a valuation allowance, the Company projects future levels of taxable income. This assessment requires significant judgment. The Company examines the evidence related to the recent history of losses, the economic conditions in which the Company operates and forecasts and projections to make that determination.

The Company has made certain strategic decisions during 2011 and 2012 concerning the negotiated termination of some of the perpetual Revenue Sharing Agreements (RSAs), the impairment of internal use software that is being replaced with a technology platform that is better suited for the

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Company's business needs and the implementation of a national sales force in order to generate growth and future value for the Company's stockholders. These strategic decisions, including the decision to terminate the former CEO's employment, have increased the Company's expenses which have resulted in losses in the past few quarters in late fiscal 2011 and fiscal 2012. The accounting standards surrounding income taxes require a company to consider whether it is more likely than not that the deferred tax assets will be realized. Once a company has had cumulative losses in recent years, regardless of the nature of the loss, the accounting standards do not allow the Company to put significant reliance on future taxable income projections to overcome the more likely than not threshold that the deferred tax assets will be realized.

As a result of the cumulative losses, the Company reserved \$1,718,919 during the second quarter of 2012 resulting in U.S. tax expense being recorded for the fiscal year ended November 30, 2012 due to the Company's decision in the second quarter of 2012 to record a valuation allowance associated with certain of the Company's deferred income tax assets, as it is more likely than not that the deferred income tax assets will not be realized. There was no U.S. income tax expense for fiscal 2011 as the Company incurred a tax loss which resulted in an increase to the net operating loss deferred tax asset, which was offset by an increase to the valuation allowance.

The Company records foreign income taxes withheld by third parties from installment payments of non-refundable up-front license fees and royalty income earned on the processing and storage of cord blood stem cell specimens in geographic areas where the Company has license agreements. The Company recognized approximately \$169,000 and \$172,000 for the years ended November 30, 2012 and 2011, respectively, of foreign income tax expense.

The Company recognizes the financial statement benefit of a tax position only after determining that the relevant tax authority would more likely than not sustain the position following an audit. For tax positions meeting the more-likely-than-not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50 percent likelihood of being realized upon ultimate settlement with the relevant tax authority. Increases or decreases to the unrecognized tax benefits could result from management's belief that a position can or cannot be sustained upon examination based on subsequent information or potential lapse of the applicable statute of limitation for certain tax positions.

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. For the years ended November 30, 2012 and November 30, 2011, the Company had no provisions for interest or penalties related to uncertain tax positions.

## **Long-Lived Assets**

The Company evaluates the realizability of its long-lived assets, which requires impairment losses to be recorded on long-lived assets used in operations when indicators of impairment, such as reductions in demand or when significant economic slowdowns are present. Reviews are performed to determine whether the carrying value of an asset is impaired, based on comparisons to undiscounted expected future cash flows. If this comparison indicates that there is impairment and carrying value is in excess of fair value, the impaired asset is written down to fair value, which is typically calculated using: (i) quoted market prices or (ii) discounted expected future cash flows utilizing a discount rate.

## **Stock Compensation**

As of November 30, 2012, the Company has three stock-based employee compensation plans, which are described in Note 7 to the consolidated financial statements. The Company's third stock-based employee compensation plan became

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effective December 1, 2011 as approved by the Board of Directors and approved by the stockholders at the 2012 Annual Meeting. The Company recognized approximately \$1,325,000 and \$329,000 for the years ended November 30, 2012 and November 30, 2011, respectively, of stock compensation expense. On May 30, 2012, the Company received a Nomination Solicitation Notice nominating six individuals for election as directors to compete with the Company's existing board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, if the Company receives a Nomination Solicitation Notice, as defined in the Company's Bylaws, all options that have been issued to the Co-CEOs will immediately vest. Included in the 2012 stock compensation expense is approximately \$700,000 that is due to the immediate vesting of the options issued to the Co-CEOs.

The Company recognizes stock-based compensation based on the fair value of the related awards. Under the fair value recognition guidance of stock-based compensation accounting rules, stock-based compensation expense is estimated at the grant date based on the fair value of the award and is recognized as expense over the requisite service period of the award. The fair value of service-based vesting condition and performance-based vesting condition stock option awards is determined using the Black-Scholes valuation model. The Company estimates the fair value of stock option awards as of the grant date by applying the Black-Scholes option pricing model. For stock option awards with only service-based vesting conditions and graded vesting features, the Company recognizes stock compensation expense based on the graded-vesting method. To value awards with market-based vesting conditions the Company uses a binomial valuation model. The Company recognizes compensation cost for awards with market-based vesting conditions on a graded-vesting basis over the derived service period calculated by the binomial valuation model. The use of these valuation models involve assumptions that are judgmental and highly sensitive in the determination of compensation expense and include the expected life of the option, stock price volatility, risk-free interest rate, dividend yield, exercise price, and forfeiture rate. Forfeitures are estimated at the time of valuation and reduce expense ratably over the vesting period.

The estimation of stock awards that will ultimately vest requires judgment and to the extent that actual results or updated estimates differ from current estimates, such amounts will be recorded as a cumulative adjustment in the period they become known. The Company considered many factors when estimating forfeitures, including the recipient groups and historical experience. Actual results and future changes in estimates may differ substantially from current estimates.

The Company issues performance-based equity awards which vest upon the achievement of certain financial performance goals, including revenue and income targets. Determining the appropriate amount to expense based on the anticipated achievement of the stated goals requires judgment, including forecasting future financial results. The estimate of the timing of the expense recognition is revised periodically based on the probability of achieving the required performance targets and adjustments are made as appropriate. The cumulative impact of any revision is reflected in the period of the change. If the financial performance goals are not met, the award does not vest, so no compensation cost is recognized and any previously recognized stock-based compensation expense is reversed.

The Company issues equity awards with market-based vesting conditions which vest upon the achievement of certain stock price targets. If the awards are forfeited prior to the completion of the derived service period, any recognized compensation is reversed. If the awards are forfeited after the completion of the derived service period, the compensation cost is not reversed, even if the awards never vest.

## **License and Royalty Agreements**

The Company has entered into licensing agreements with certain investors in various international markets in an attempt to capitalize on the Company's technology. The investors typically pay a licensing fee to receive Company marketing programs, technology and know-how in a selected area. The investor may be given a right to sell sub-license agreements as well. As part of the accounting

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for the up-front license revenue, revenue from the up-front license fee is recognized based on such factors as when the payment is due, collectability and when all material services or conditions relating to the sale have been substantially performed based on the terms of the agreement. The Company has nineteen active licensing agreements. The following areas each have one license agreement: Mexico, El Salvador, Guatemala, Ecuador, Panama, Honduras, China, Pakistan, Chile, Colombia and Peru. The following areas each have two license agreements: Venezuela, India, Nicaragua and Costa Rica. In October 2012, the Company sent notice of termination to the Company's Venezuelan affiliate for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Venezuela. The Company is in the process of discussing a new agreement. In December 2012, the Company sent notice of termination to the Company's affiliate in Ecuador for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Ecuador. The Company is in the process of discussing a new agreement.

In addition to the license fee, the Company earns a royalty on processing and storage fees on subsequent processing and storage revenues received by the licensee in the licensed territory and a fee on any sub-license agreements that are sold by the licensee where applicable. The Company processes and stores specimens sent directly from customers of licensees in Mexico, El Salvador, Guatemala, Ecuador, Panama, Honduras, Nicaragua, Costa Rica, Pakistan and Venezuela. The Company also processes and stores specimens from sub-licenses of Venezuela, who are Chile, Colombia and Peru. These fees are included in processing and storage fees revenue on the consolidated statements of operations. As part of the accounting for royalty revenue from China and India, the Company uses estimates and judgments based on historical processing and storage volume in determining the timing and amount of royalty revenue to recognize. The Company periodically reviews license and royalty receivables for collectability and, if necessary, will record an expense for an allowance for uncollectible accounts. If the financial condition of the Company's sub-licensees were to deteriorate beyond the estimates, the Company may have to increase the allowance for doubtful accounts which could have a negative impact on earnings. If the licensee's customer base were to decrease, it would negatively impact the Company's ongoing license income.

## **Accounts Receivable**

Accounts receivable consist of the amounts due from clients that have enrolled and processed in the umbilical cord blood processing and storage program and amounts due from licensee affiliates and do not require collateral. Accounts receivable due from clients and licensee affiliates that store specimens at the Company's facility in Oldsmar, Florida are due within 30 days and are stated at amounts due from clients net of an allowance for doubtful accounts. Accounts outstanding longer than the contractual payment terms are considered past due. The Company determines its allowance by considering the length of time accounts receivable are past due, the Company's previous loss history, and the customer's and licensees' current ability to pay its obligations. Therefore, if the financial condition of the Company's clients were to deteriorate beyond the estimates, the Company may have to increase the allowance for doubtful accounts which could have a negative impact on earnings. The Company writes-off accounts receivable when they become uncollectible, and payments subsequently received on such receivables are credited to the allowance for doubtful accounts.

## **Investment in Saneron**

The Company owns 34% as of November 30, 2012 and November 30, 2011, of an entity that is involved in the area of stem cell research. The Company accounts for this investment under the equity method. The Company previously recorded equity in losses of affiliate until the investment balance was zero and only goodwill remained. The Company continues to record compensation expense related to expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and serve on its board of directors. The investment is reviewed annually to determine if an other than temporary impairment exists. The Company does not believe that an impairment exists as of November 30, 2012 and November 30, 2011. If actual future results are not consistent with the Company's assumptions and estimates, the Company may be required to record impairment charges in the future which could have a negative impact on earnings.

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### **Patents and Trademarks**

The Company incurs certain legal and related costs in connection with patent and trademark applications. If a future economic benefit is anticipated from the resulting patent or trademark or an alternate future use is available to the Company, such costs are capitalized and amortized over the expected life of the patent or trademark. The Company's assessment of future economic benefit involves considerable management judgment. A different conclusion could result in the reduction of the carrying value of these assets. During 2012 and 2011, management decided to discontinue pursuing certain patents and trademarks resulting in a write-off of approximately \$53,000 and \$211,000, respectively, for abandoned patents and trademarks which is reflected as abandonment of patents in the accompanying consolidated statement of operations for the twelve months ended November 30, 2012 and November 30, 2011.

### **Revenue Sharing Agreements**

The Company has entered into Revenue Sharing Agreements (RSAs) with various parties whereby these parties contracted with the Company for a percentage of future storage revenues the Company generates and collects from clients in specific geographical areas. The RSAs have no definitive term or termination provisions. The sharing applies to the storage fees for all specified specimens in the area up to the number covered in the contract. When the number of specimens is filled, any additional specimens stored in that area are not subject to revenue sharing. As there are empty spaces resulting from attrition, the Company agrees to fill them as soon as possible. The parties typically pay the Company a non-refundable up-front fee for the rights to these future payments. The Company recognized these non-refundable fees as a long-term liability. Given the criteria under which these RSAs are established, cash flows related to these contracts can fluctuate from period to period. All payments made to the other parties to the RSAs are recognized as interest expense. At such time as the total payments can be determined, the Company will commence amortizing these liabilities under the effective interest method. The Company does not intend to enter into additional RSAs.

### **Recently Issued Accounting Pronouncements**

In June 2011, the FASB issued ASU 2011-05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income* (ASU 2011-05). ASU 2011-05 will require companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements. It eliminates the option to present components of other comprehensive income as part of the changes in stockholders' equity. The standard does not change the items which must be reported in other comprehensive income, how such items are measured or when they must be reclassified to net income. ASU 2011-05 is effective for interim and annual periods beginning after December 15, 2011, with early adoption permitted. The Company will adopt ASU 2011-05 when required in the first quarter of 2013. The adoption of ASU 2011-05 will only impact presentation and will not have any effect on the Company's consolidated financial statements or on its financial condition.

In December 2011, the FASB issued Accounting Standards Update No. 2011-12: *Comprehensive Income (Topic 220): Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05 (ASU 2011-12)*. The Update defers the specific requirement to present items that are reclassified from accumulated other comprehensive income to net income separately with their respective components of net income and other comprehensive income. As part of this update, the FASB did not defer the requirement to report comprehensive income either in a single continuous statement or in two separate but consecutive financial statements. ASU 2011-12 is effective for annual periods beginning after December 15, 2011. The Company will adopt ASU 2011-12 in the first quarter of 2013.

In February 2013, the FASB issued Accounting Standards Update No. 2013-02, *Comprehensive Income (Topic 220): Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income* (ASU 2013-02). This update will require companies to present information about amounts reclassified out of accumulated other comprehensive income and their corresponding effect on net income in one place and reference the amounts to the related footnote disclosures. Current accounting standards present this information in different places throughout the financial statements. ASU 2013-02 is effective for interim and annual periods beginning after December 15, 2012, with early adoption permitted. The adoption of ASU 2013-02 will only impact disclosure requirements and will not have any effect on the Company's consolidated financial statements or on its financial condition.

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**Off-Balance Sheet Arrangements**

The Company has no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on its financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

Not applicable.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

The consolidated financial statements and supplementary data listed in the accompanying Index to Consolidated Financial Statements are attached as part of this report.

The following consolidated financial statements of Cryo-Cell International, Inc. are included in Item 8:

Report of Independent Registered Public Accounting Firm

Consolidated Balance Sheets as of November 30, 2012 and 2011

Consolidated Statements of Operations For the Years Ended November 30, 2012 and 2011

Consolidated Statements of Cash Flows For the Years Ended November 30, 2012 and 2011

Consolidated Statements of Stockholders' Deficit For the Years Ended November 30, 2012 and 2011

Notes to Consolidated Financial Statements

All other schedules for which provision is made in the applicable accounting regulations of the Securities and Exchange Commission are not required under the related instructions, are already included in the Notes to Consolidated Financial Statements included under this Item 8 or are inapplicable, and therefore have been omitted.



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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and

Stockholders of Cryo-Cell International, Inc.

We have audited the accompanying consolidated balance sheets of Cryo-Cell International, Inc. (a Delaware corporation) and subsidiaries (the Company ) as of November 30, 2012 and 2011, and the related consolidated statements of operations, changes in stockholders' deficit, and cash flows for each of two years in the period ended November 30, 2012. 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. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, 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 consolidated financial statements referred to above present fairly, in all material respects, the financial position of Cryo-Cell International, Inc. and subsidiaries as of November 30, 2012 and 2011, and the results of their operations and their cash flows for each of the two years in the period ended November 30, 2012 in conformity with accounting principles generally accepted in the United States of America.

/s/ GRANT THORNTON LLP

Orlando, Florida  
February 28, 2013

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## CONSOLIDATED BALANCE SHEETS

|   | November 30,<br>2012 | November 30,<br>2011 |
|---|----------------------|----------------------|
| <b><u>ASSETS</u></b>  |                      |                      |
| <b><u>Current Assets</u></b>  |                      |                      |
| Cash and cash equivalents   | \$ 2,677,382         | \$ 6,305,095         |
| Restricted cash   | 2,576,844            | 2,700,000            |
| Marketable securities and other investments   |                      | 1,002,000            |
| Accounts receivable (net of allowance for doubtful accounts of \$1,367,465 and \$942,533, respectively) | 3,401,597            | 3,059,126            |
| Deferred income tax assets  |                      | 209,919              |
| Prepaid expenses and other current assets   | 659,179              | 777,284              |
| <b>Total current assets</b>   | <b>9,315,002</b>     | <b>14,053,424</b>    |
| <b><u>Property and Equipment-net</u></b>  | <b>1,281,075</b>     | <b>1,540,239</b>     |
| <b><u>Other Assets</u></b>  |                      |                      |
| Marketable securities and other investments   | 13,660               | 6,404                |
| Investment in Saneron CCEL Therapeutics, Inc.   | 684,000              | 684,000              |
| Long-term note receivable, net  | 550,697              | 1,115,423            |
| Deposits and other assets, net  | 486,225              | 558,254              |
| Deferred income tax assets, less current portion  |                      | 1,509,000            |
| <b>Total other assets</b>   | <b>1,734,582</b>     | <b>3,873,081</b>     |
| <b>Total assets</b>   | <b>\$ 12,330,659</b> | <b>\$ 19,466,744</b> |
| <b><u>LIABILITIES AND STOCKHOLDERS DEFICIT</u></b>  |                      |                      |
| <b><u>Current Liabilities</u></b>   |                      |                      |
| Accounts payable  | \$ 1,209,973         | \$ 1,005,240         |
| Accrued expenses  | 2,917,758            | 2,316,875            |
| Short-term liability - revenue sharing agreement  |                      | 900,000              |
| Deferred consulting obligation  |                      | 72,183               |
| Deferred revenue  | 6,536,160            | 6,269,148            |
| <b>Total current liabilities</b>  | <b>10,663,891</b>    | <b>10,563,446</b>    |
| <b><u>Other Liabilities</u></b>   |                      |                      |
| Deferred revenue, net of current portion  | 8,364,533            | 8,513,686            |
| Long-term liability - revenue sharing agreements  | 2,300,000            | 2,850,000            |
| <b>Total other liabilities</b>  | <b>10,664,533</b>    | <b>11,363,686</b>    |
| <b>Commitments and Contingencies (Note 9)</b>   |                      |                      |
| <b><u>Stockholders Deficit</u></b>  |                      |                      |
| Preferred stock (\$.01 par value, 500,000 authorized and none issued)                                   |                      |                      |

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|   |                   |                   |
|---|-------------------|-------------------|
| Common stock (\$.01 par value, 20,000,000 authorized; 11,860,040 issued and 11,067,666 outstanding as of November 30, 2012 and 11,853,227 issued and outstanding as of November 30, 2011) | 118,600           | 118,532           |
| Additional paid-in capital  | 26,824,478        | 25,350,483        |
| Treasury stock, at cost   | (2,187,505)       | (484,535)         |
| Accumulated deficit   | (33,753,338)      | (27,444,868)      |
| <br>Total stockholders' deficit   | <br>(8,997,765)   | <br>(2,460,388)   |
| <br>Total liabilities and stockholders' deficit   | <br>\$ 12,330,659 | <br>\$ 19,466,744 |

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

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## CONSOLIDATED STATEMENTS OF OPERATIONS

|  | November 30,<br>2012  | November 30,<br>2011  |
|--|-----------------------|-----------------------|
| <b>Revenue:</b>  |                       |                       |
| Processing and storage fees                                      | \$ 16,628,037         | \$ 16,554,565         |
| Licensee income  | 1,341,818             | 1,363,705             |
| <br>   |                       |                       |
| Total revenue  | 17,969,855            | 17,918,270            |
| <b>Costs and Expenses:</b>                                       |                       |                       |
| Cost of sales  | 4,888,414             | 4,399,444             |
| Selling, general and administrative expenses                     | 14,426,244            | 12,413,082            |
| Impairment of internal use software                              |                       | 627,034               |
| Abandonment of patents   | 52,536                | 210,171               |
| Research, development and related engineering                    | 109,640               | 184,047               |
| Depreciation and amortization                                    | 204,149               | 361,234               |
| <br>   |                       |                       |
| Total costs and expenses   | 19,680,983            | 18,195,012            |
| <br>   |                       |                       |
| <b>Operating Loss</b>  | <b>(1,711,128)</b>    | <b>(276,742)</b>      |
| <b>Other Income (Expense):</b>                                   |                       |                       |
| Other income   | 63,490                | 36,905                |
| Extinguishment of revenue sharing agreements                     | (1,595,606)           |                       |
| Interest expense   | (1,022,429)           | (1,456,737)           |
| <br>   |                       |                       |
| Total other expense  | (2,554,545)           | (1,419,832)           |
| <br>   |                       |                       |
| Loss before equity in losses of affiliate and income tax expense | (4,265,673)           | (1,696,574)           |
| Equity in losses of affiliate                                    | (154,564)             | (227,016)             |
| <br>   |                       |                       |
| Loss before income tax expense                                   | (4,420,237)           | (1,923,590)           |
| Income tax expense   | (1,888,233)           | (171,936)             |
| <br>   |                       |                       |
| <b>Net Loss</b>  | <b>\$ (6,308,470)</b> | <b>\$ (2,095,526)</b> |
| <br>   |                       |                       |
| Net loss per common share - basic                                | \$ (0.56)             | \$ (0.18)             |
| <br>   |                       |                       |
| Weighted average common shares outstanding - basic               | 11,308,872            | 11,763,290            |
| <br>   |                       |                       |
| Net loss per common share - diluted                              | \$ (0.56)             | \$ (0.18)             |

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|  |            |            |
|--|------------|------------|
| Weighted average common shares outstanding - diluted | 11,308,872 | 11,763,290 |
|--|------------|------------|

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

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## CONSOLIDATED STATEMENTS OF CASH FLOWS

|   | November 30,<br>2012 | November 30,<br>2011 |
|---|----------------------|----------------------|
| <b>Cash flows from operating activities:</b>                                    |                      |                      |
| Net loss  | \$ (6,308,470)       | (2,095,526)          |
| Adjustments to reconcile net loss to net cash provided by operating activities: |                      |                      |
| Depreciation and amortization expense   | 466,736              | 579,847              |
| Impairment of internal use software   |                      | 627,034              |
| Abandonment of patents  | 52,536               | 210,171              |
| Loss on sale of property and equipment  |                      | 20,474               |
| Compensatory element of stock options   | 1,325,196            | 329,001              |
| Provision for doubtful accounts   | 746,007              | 227,907              |
| Equity in losses of affiliate   | 154,564              | 227,016              |
| Loss on extinguishment of revenue sharing agreements                            | 1,595,606            |                      |
| Deferred income tax expense   | 1,718,919            |                      |
| Changes in assets and liabilities:  |                      |                      |
| Accounts and notes receivable   | (522,366)            | (2,046,177)          |
| Prepaid expenses and other current assets                                       | 118,105              | (129,774)            |
| Deposits and other assets   | (32,535)             | 36,929               |
| Accounts payable  | 199,036              | (47,946)             |
| Accrued expenses  | 801,891              | 695,654              |
| Deferred consulting obligation  | (72,183)             | (110,872)            |
| Deferred revenue  | 117,859              | 2,295,384            |
| <b>Net cash provided by operating activities</b>                                | <b>360,901</b>       | <b>819,122</b>       |
| <b>Cash flows from investing activities:</b>                                    |                      |                      |
| Restricted cash held in escrow  | 123,156              | (2,500,000)          |
| Purchases of property and equipment   | (133,538)            | (505,715)            |
| Purchases of marketable securities and other investments                        | (13,660)             |                      |
| Proceeds from sale of marketable securities and other investments               | 1,008,404            | 130,000              |
| Investments in patents  | (22,006)             | (88,785)             |
| <b>Net cash provided by (used in) investing activities</b>                      | <b>962,356</b>       | <b>(2,964,500)</b>   |
| <b>Cash flows from financing activities:</b>                                    |                      |                      |
| Extinguishment of revenue sharing agreements                                    | (3,248,000)          |                      |
| Treasury stock purchases  | (1,702,970)          |                      |
| Proceeds from the exercise of stock options                                     |                      | 80,936               |
| <b>Net cash (used in) provided by financing activities</b>                      | <b>(4,950,970)</b>   | <b>80,936</b>        |
| <b>Decrease in cash and cash equivalents</b>                                    | <b>(3,627,713)</b>   | <b>(2,064,442)</b>   |
| Cash and cash equivalents - beginning of period                                 | 6,305,095            | 8,369,537            |
| Cash and cash equivalents - end of period                                       | \$ 2,677,382         | \$ 6,305,095         |

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



**Table of Contents****CRYO-CELL INTERNATIONAL, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF STOCKHOLDERS DEFICIT**

|  | Common Stock<br>Shares | Common Stock<br>Amount | Additional<br>Paid-In<br>Capital | Treasury<br>Stock | Accumulated<br>Other<br>Comprehensive<br>Loss | Accumulated<br>Deficit | Total<br>Stockholders<br>Deficit |
|--|------------------------|------------------------|----------------------------------|-------------------|---|------------------------|----------------------------------|
| Balance at November 30, 2010 (as adjusted)   | 11,752,574             | \$ 117,526             | \$ 24,808,591                    | \$ (484,535)      | \$ (94,055)                                   | \$ (25,349,342)        | \$ (1,001,815)                   |
| Shares issued upon exercise of stock options | 100,653                | 1,006                  | 79,930                           |                   |   |                        | 80,936                           |
| Compensatory element of stock options        |                        |                        | 461,962                          |                   |   |                        | 461,962                          |
| Comprehensive loss:                          |                        |                        |                                  |                   |   |                        |                                  |
| Net loss                                     |                        |                        |                                  |                   |   | (2,095,526)            | (2,095,526)                      |
| Realized loss in affiliate                   |                        |                        |                                  |                   | 94,055  |                        | 94,055                           |
| Comprehensive loss:                          |                        |                        |                                  |                   |   |                        | (2,001,471)                      |
| Balance at November 30, 2011                 | 11,853,227             | \$ 118,532             | \$ 25,350,483                    | \$ (484,535)      | \$  | \$ (27,444,868)        | \$ (2,460,388)                   |
| Shares issued upon exercise of stock options | 6,813                  | 68                     | (5,765)                          |                   |   |                        | (5,697)                          |
| Compensatory element of stock options        |                        |                        | 1,479,760                        |                   |   |                        | 1,479,760                        |
| Treasury Stock                               |                        |                        |                                  | (1,702,970)       |   |                        | (1,702,970)                      |
| Net loss                                     |                        |                        |                                  |                   |   | (6,308,470)            | (6,308,470)                      |
| Balance at November 30, 2012                 | 11,860,040             | \$ 118,600             | \$ 26,824,478                    | \$ (2,187,505)    | \$  | \$ (33,753,338)        | \$ (8,997,765)                   |

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



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**CRYO-CELL INTERNATIONAL, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**NOVEMBER 30, 2012 and 2011**

**NOTE 1 - DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Description of Business.**

Cryo-Cell International, Inc. ( the Company or Cryo-Cell ) was incorporated in Delaware on September 11, 1989 and is located in Oldsmar, Florida. The Company operates in one reportable segment and is principally engaged in cellular processing and cryogenic cellular storage, with a current focus on the collection and preservation of umbilical cord blood stem cells for family use. Revenues recognized primarily represent sales of the umbilical cord blood stem cells program to customers, and income from licensees selling the umbilical cord blood stem cells program to customers outside the United States. The Company's headquarters facility in Oldsmar, Florida handles all aspects of its U.S.-based business operations including the processing and storage of specimens, including specimens obtained from certain of its licensees' customers. The specimens are stored in commercially available cryogenic storage equipment.

The Company formed its then wholly owned Delaware subsidiaries, Safti-Cell, Inc., CCEL Immune System Technologies, Inc., Stem Cell Preservation Technologies, Inc. (formerly CCEL Expansion Technologies, Inc.), CCEL Bio-Therapies, Inc. and Multi-Monitoring Systems, Inc., in 1993. In 1998, the Company formed Info-Medical Technologies, Inc. In 2000, the Company formed Tumor Tissue Technology, Inc. and Stem Cell Preservation, Inc. CCEL Immune Technologies, Inc., Tumor Tissues Technology, Inc., Stem Cell Preservation, Inc., Stem Cell Preservation Technologies, Inc., Multi-Monitoring Systems, Inc. and Info-Medical Technologies, Inc. did not have operations during the fiscal years ended November 30, 2012 and 2011. As of November 30, 2012, no shares had been issued for any of these subsidiaries except for Stem Cell Preservation Technologies, Inc. During 2009, the Company sold its interest in Safti-Cell, Inc. as part of an Asset Purchase Agreement.

On October 10, 2001, Saneron Therapeutics, Inc. merged into one of the Company's wholly owned subsidiaries, CCEL Bio-Therapies, Inc. ( CCBT ), which then changed its name to Saneron CCEL Therapeutics, Inc. ( SCTI or Saneron ). As part of the merger, the Company contributed 260,000 shares of its common stock, whose fair value was \$1,924,000 and 195,000 common shares of another of its subsidiaries, Stem Cell Preservation Technologies, Inc., whose fair value was \$3,900. At the conclusion of the merger, the Company retained a 43.42% non-controlling interest in the voting stock of SCTI. As of November 30, 2012 and 2011, the Company had an interest of approximately 34% in the voting stock of SCTI. The accompanying consolidated financial statements as of November 30, 2012 and 2011 reflect the investment in SCTI under the equity method of accounting.

**Basis of Presentation**

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements as of November 30, 2012 and 2011 and for the years then ended includes the accounts of the Company and all of its subsidiaries. All intercompany balances have been eliminated upon consolidation.

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### **Concentration of Risks**

Financial instruments that potentially subject the Company to concentrations of credit risk are principally cash and cash equivalent accounts in financial institutions, which often exceed the Federal Depository Insurance (FDIC) limit. The Company places its cash with high quality financial institutions and believes it is not exposed to any significant credit risk. The Company may from time to time invest some of its cash funds in certificates of deposit and bond investments maintained by brokers who are insured under the Securities Investor Protection Corporation (SIPC). The Company believes these are conservative investments with a low risk for any loss of principal. The Company regularly assesses its marketable security investments for impairment and adjusts its investment strategy as it deems appropriate.

The Company depends on one supplier for the source of its collection kits, a critical component of the umbilical cord blood stem cell collection process. However, the Company believes that alternative sources of supply are available.

As of November 30, 2012 and November 30, 2011, the Company has amounts due from certain foreign license affiliates that account for approximately 55% and 41%, respectively, of accounts receivable on the consolidated balance sheets.

### **Use of Estimates**

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

### **Revenue Recognition**

#### *Revenue Recognition for Arrangements with Multiple Deliverables*

For multi-element arrangements, the Company allocates revenue to all deliverables based on their relative selling prices. In such circumstances, accounting principles establish a hierarchy to determine the selling price to be used for allocating revenue to deliverables as follows: (i) vendor-specific objective evidence of fair value ( VSOE ), (ii) third-party evidence of selling price ( TPE ), and (iii) best estimate of the selling price ( ESP ). VSOE generally exists only when the Company sells the deliverable separately and it is the price actually charged by the Company for that deliverable.

The Company has identified two deliverables generally contained in the arrangements involving the sale of its umbilical cord blood product. The first deliverable is the processing of a specimen. The second deliverable is either the annual storage of a specimen or the 21 year storage fee charged for a specimen. The Company has allocated revenue between these deliverables using the relative selling price method. The Company has VSOE for its annual storage fees as the Company renews storage fees annually with its customers on a standalone basis. Because the Company has neither VSOE nor TPE for the processing and 21 year storage deliverables, the allocation of revenue has been based on the Company's ESPs. Amounts allocated to processing a specimen are recognized at the time of sale. Amounts allocated to the storage of a specimen are recognized ratably over the contractual storage period. Any discounts given to the customer are recognized by applying the relative selling price method whereby after the Company determines the selling price to be allocated to each deliverable (processing and storage), the sum of the prices of the deliverables is then compared to the arrangement consideration, and any difference is applied to the separate deliverables ratably.

The Company's process for determining its ESP for deliverables without VSOE or TPE considers multiple factors that may vary depending upon the unique facts and circumstances related to each deliverable. Key factors considered by the Company in developing the ESPs for its processing and 21 year storage fee include the Company's historical pricing practices as well as expected profit margins.

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The Company records revenue from processing and storage of specimens and pursuant to agreements with licensees. The Company recognizes revenue from processing fees upon completion of processing and recognizes storage fees ratably over the contractual storage period, as well as, other income from royalties paid by licensees related to long-term storage contracts which the Company has under license agreements. Contracted storage periods can range from one to twenty-one years. Deferred revenue on the accompanying consolidated balance sheets includes the portion of the annual storage fee and the twenty-one year storage fee that is being recognized over the contractual storage period as well as royalties received from foreign licensees related to long-term storage contracts in which the Company has future obligations under the license agreement. The Company classifies deferred revenue as current if the Company expects to recognize the related revenue over the next 12 months. The Company also records revenue within processing and storage fees from shipping and handling billed to customers when earned. Shipping and handling costs that the Company incurs are expensed and included in cost of sales.

The Company has not had a third party conduct a physical inventory count of all specimens stored; however, the Company from time to time will perform a physical inventory count of specimens stored to ensure that all records are accurate.

## **Revenue Sharing Agreements**

The Company maintains Revenue Sharing Agreements ( RSAs ) entered into with various parties prior to 2002, whereby these parties contracted with the Company for a percentage of future storage revenues the Company generates from clients in specific geographical areas. The parties typically paid the Company a non-refundable up-front fee for the rights to these future payments. The Company has initially recorded this up-front fee as a long-term liability in the accompanying consolidated balance sheets. Given the criteria under which these RSAs were established, cash payments from these contracts can fluctuate from period to period. All payments made to the other parties to the RSAs are recognized as interest expense. At such time as the total payments can be determined, the Company will commence amortizing these liabilities under the effective interest method (See Note 12).

## **License and Royalty Agreements**

The Company has entered into licensing agreements with certain investors in various international markets in an attempt to capitalize on the Company's technology. The investors typically pay a licensing fee to receive Company marketing programs, technology and know-how in a selected area. The investor may be given a right to sell sub-license agreements as well. As part of the accounting for the up-front license fee paid, or payable, to the Company, revenue from the up-front license fee is recognized based on such factors as when the payment is due, collectability and when all material services or conditions relating to the sale have been substantially performed by the Company based on the terms of the agreement. The Company has fourteen active licensing agreements. The following areas each have one license agreement: Mexico, El Salvador, Guatemala, Ecuador, Panama, Honduras, China, and Pakistan. The following areas each have two license agreements: India, Nicaragua and Costa Rica.

In October 2012, the Company sent notice of termination to the Company's Venezuelan affiliate, which represents Venezuela, Chile, Colombia and Peru, for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Venezuela. The Company is in the process of discussing a new agreement. The Company continues to accept umbilical cord blood and menstrual stem cell specimens to be processed and stored during the negotiations. In December 2012, the Company sent notice of termination to the Company's affiliate in Ecuador for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Ecuador. The Company is in the process of discussing a new agreement. The Company continues to accept umbilical cord blood and menstrual stem cell specimens to be processed and stored during the negotiations.

In addition to the license fee, the Company earns processing and storage fees on subsequent processing and storage revenues received by the licensee in the licensed territory and a fee on any sub-license agreements that are sold by the licensee where applicable. The Company processes and stores specimens sent directly from customers of licensees in Mexico, El Salvador, Guatemala, Ecuador, Panama, Honduras, Nicaragua, Costa Rica, Pakistan and Venezuela. The Company also processes and stores specimens from sub-licenses of Venezuela, who are Chile, Colombia and Peru. These fees are included in processing and storage fees revenue on the consolidated statements of operations. As part of the accounting for royalty revenue from China, India and Mexico, the Company uses estimates and

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judgments based on historical processing and storage volume in determining the timing and amount of royalty revenue to recognize. The Company periodically reviews license and royalty receivables for collectability and, if necessary, will record an expense for an allowance for uncollectible accounts. If the financial condition of the Company's sub-licensees were to deteriorate beyond the estimates, the Company may have to increase the allowance for doubtful accounts which could have a negative impact on earnings. If the licensee's customer base were to decrease, it would negatively impact the Company's ongoing license income.

**Cash and Cash Equivalents**

Cash and cash equivalents consist of highly liquid investments with a maturity date at acquisition of three months or less at the time of purchase.

**Restricted Cash**

The Company has restricted cash of \$2,576,844 and \$2,700,000 as of November 30, 2012 and November 30, 2011, respectively. The Company's bank provided a Letter of Credit in favor of a company that provides third-party financing to the Company's clients. As a requirement to issue the Letter of Credit, the Company's bank required that \$200,000 of cash be designated restricted.

On August 25, 2011, the Company transferred \$2,500,000 to a Grantor Trust (See Note 16) for payments under certain executive employment agreements. The Trust is irrevocable and the Company has no power to direct the Trustee (Wells Fargo National Association) to return the funds to the Company. The funds will be returned to the Company when the Trustee is satisfied that the obligations have been satisfied per any agreed upon terms. If the Company becomes insolvent, the Trustee will cease payments of benefits to the Participants and the cash will revert to the Company. Upon written approval of all Participants, the Company may terminate the Trust. The Trustee may reduce the Grantor Trust for legal fees that the Trustee incurs. During fiscal 2012 and fiscal 2011, \$81,250 and \$0, respectively, of legal expenses were deducted from the trust balance. As of November 30, 2012, the trust monies are being held as cash.

**Accounts Receivable**

Accounts receivable consist of uncollateralized amounts due from clients that have enrolled and processed in the umbilical cord blood and menstrual stem cell processing and storage programs and amounts due from license affiliates, and sublicensee territories and do not require collateral. Accounts receivable due from clients and license affiliates that store specimens at the Company's facility in Oldsmar, Florida are due within 30 days and are stated at amounts due from clients net of an allowance for doubtful accounts. Accounts outstanding longer than the contractual payment terms are considered past due. The Company determines its allowance by considering the length of time accounts receivable are past due, the Company's previous loss history, and the client's current ability to pay its obligations. Therefore, if the financial condition of the Company's clients were to deteriorate beyond the estimates, the Company may have to increase the allowance for doubtful accounts which could have a negative impact on earnings. The Company writes-off accounts receivable when they become uncollectible, and payments subsequently received on such receivables are credited to the allowance for doubtful accounts. The activity in the allowance for doubtful accounts is as follows for the years ended November 30, 2012 and 2011:

|                   |              |
|-------------------|--------------|
| December 1, 2010  | \$ 783,354   |
| Bad Debt Expense  | 227,907      |
| Write-offs        | (193,184)    |
| Recoveries        | 124,456      |
| November 30, 2011 | 942,533      |
| Bad Debt Expense  | 746,007      |
| Write-offs        | (434,401)    |
| Recoveries        | 113,326      |
| November 30, 2012 | \$ 1,367,465 |

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**Property and Equipment**

Property and equipment are stated at cost. Depreciation is provided primarily by the straight-line method over the estimated useful lives of the related assets. Estimated useful lives of property and equipment are as follows:

|                                  |   |
|----------------------------------|---|
| Furniture and equipment          | 3-10 years                                      |
| Leasehold improvements           | Lesser of 8-10 years or the lives of the leases |
| Computer software – internal use | 1-5 years                                       |

Leasehold improvements are amortized over the shorter of the respective life of the lease or the estimated useful lives of the improvements. Upon the sale or retirement of depreciable assets, the cost and related accumulated depreciation is removed from the accounts and the resulting profit or loss is reflected in income. Expenditures for maintenance, repairs and minor betterments are expensed as incurred.

The Company capitalizes external direct costs of materials and services consumed in developing or obtaining internal-use computer software. Capitalized internal-use software costs, which are included in property and equipment, are depreciated over the estimated useful lives of the software.

**Long-Lived Assets**

The Company evaluates the realizability of its long-lived assets, which requires impairment losses to be recorded on long-lived assets used in operations when indicators of impairment, such as reductions in demand or when significant economic slowdowns are present. Reviews are performed to determine whether the carrying value of an asset is impaired, based on comparisons to undiscounted expected future cash flows. If this comparison indicates that there is impairment and carrying value is in excess of fair value, the impaired asset is written down to fair value, which is typically calculated using: (i) quoted market prices or (ii) discounted expected future cash flows utilizing a discount rate. During fiscal 2011, the Company determined that previously capitalized costs associated with the development of internal use computer software would be of no further use to the Company and should be written off and the asset was fully impaired. As of November 30, 2011, the Company impaired the related internal use computer software costs in the amount of \$627,034 which is included in impairment of internal use software in the accompanying consolidated statements of operations. There was no impairment as of November 30, 2012.

**Patents and Trademarks**

The Company incurs certain legal and related costs in connection with patent and trademark applications. If a future economic benefit is anticipated from the resulting patent or trademark or an alternate future use is available to the Company, such costs are capitalized and amortized over the expected life of the patent or trademark. The Company's assessment of future economic benefit involves considerable management judgment. A different conclusion could result in the reduction of the carrying value of these assets. During 2012 and 2011, management decided to discontinue pursuing certain patents and trademarks resulting in a write-off of approximately \$53,000 and \$210,000 respectively for abandoned patents and trademarks which is reflected as abandonment of patents in the accompanying consolidated statement of operations for the twelve months ended November 30, 2012 and November 30, 2011.

Amortization expense was approximately \$74,000 and \$40,000 in 2012 and 2011, respectively. Accumulated amortization was approximately \$87,000 and \$74,000 in 2012 and 2011, respectively. The

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difference in amortization expense and accumulated amortization is due to the abandonment of patents during 2012 and 2011. Patent costs are capitalized on the date that the utility patent was filed and are amortized over a period of 20 years. Capitalized net patent costs are included in deposits and other assets in the accompanying consolidated balance sheets. Patent costs are as follows:

|                                | 2012              | 2011              |
|--------------------------------|-------------------|-------------------|
| Patents                        | \$ 490,545        | \$ 529,385        |
| Less: Accumulated amortization | (87,249)          | (74,060)          |
| <b>Net Patents</b>             | <b>\$ 403,296</b> | <b>\$ 455,325</b> |

The future amortization expenses are as follows:

| Fiscal Year Ending November 30, | Amortization |
|---------------------------------|--------------|
| 2013                            | \$ 25,900    |
| 2014                            | \$ 25,900    |
| 2015                            | \$ 25,900    |
| 2016                            | \$ 25,900    |
| 2017                            | \$ 25,900    |
| Thereafter                      | \$ 273,796   |

**Investment in Saneron**

The Company owns 34% as of November 30, 2012 and November 30, 2011, of an entity that is involved in the area of stem cell research. The Company accounts for this investment under the equity method. The Company previously recorded equity in losses of affiliate until the investment balance was zero and only goodwill remained. The Company continues to record compensation expense related to expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and serve on its board of directors. The investment is reviewed annually to determine if an other than temporary impairment exists. The Company does not believe that an impairment exists as of November 30, 2012 and November 30, 2011. If actual future results are not consistent with the Company's assumptions and estimates, the Company may be required to record impairment charges in the future which could have a negative impact on earnings.

**Income Taxes**

Deferred income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred income tax assets and liabilities are measured using enacted tax rates expected to be recovered or settled. The Company has recorded a valuation allowance of approximately \$10,947,000 and \$7,756,000 as of November 30, 2012 and November 30, 2011, respectively, as the Company does not currently believe it is more likely than not that all of the future income tax benefits will be realized. When the Company changes its determination as to the amount of deferred income tax assets that can be realized, the valuation allowance is adjusted with a corresponding impact to income tax expense in the period in which such determination is made. The ultimate realization of the Company's deferred income tax assets depends upon generating sufficient taxable income prior to the expiration of the tax attributes. In assessing the need for a valuation allowance, the Company projects future levels of taxable income. This assessment requires significant judgment. The Company examines the evidence related to the recent history of losses, the economic conditions in which the Company operates and forecasts and projections to make that determination.

The Company has made certain strategic decisions during 2011 and 2012 concerning the negotiated termination of some of the perpetual Revenue Sharing Agreements (RSAs), the impairment of internal use software that is being replaced with a technology platform that is better suited for the

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Company's business needs and the implementation of a national sales force in order to generate growth and future value for the Company's stockholders. These strategic decisions, including the decision to terminate the former CEO's employment, have increased the Company's expenses which have resulted in losses in the past few quarters in late fiscal 2011 and in fiscal 2012. The accounting standards surrounding income taxes require a company to consider whether it is more likely than not that the deferred income tax assets will be realized. Once a company has had cumulative losses in recent years, regardless of the nature of the loss, the accounting standards do not allow the Company to put significant reliance on future taxable income projections to overcome the more likely than not threshold that the deferred tax assets will be realized.

As a result of the cumulative losses, the Company reserved \$1,718,919 during the second quarter of 2012 resulting in U.S. tax expense being recorded for the fiscal year ended November 30, 2012 due to the Company's decision in the second quarter of 2012 to record a valuation allowance associated with certain of the Company's deferred income tax assets, as it is more likely than not that the deferred income tax assets will not be realized. There was no U.S. income tax expense for fiscal 2011 as the Company incurred a tax loss which resulted in an increase to the net operating loss deferred tax asset, which was offset by an increase to the valuation allowance.

The Company records foreign income taxes withheld from installment payments of non-refundable up-front license fees and royalty income earned on the processing and storage of cord blood stem cell specimens in certain geographic areas where the Company has license agreements. The Company recorded approximately \$169,000 and \$172,000 for the years ended November 30, 2012 and 2011, respectively, of foreign income tax expense, which is included in income tax expense in the accompanying consolidated statements of operations.

The Company recognizes the financial statement benefit of a tax position only after determining that the relevant tax authority would more likely than not sustain the position following an audit. For tax positions meeting the more-likely-than-not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50 percent likelihood of being realized upon ultimate settlement with the relevant tax authority. Increases or decreases to the unrecognized tax benefits could result from management's belief that a position can or cannot be sustained upon examination based on subsequent information or potential lapse of the applicable statute of limitation for certain tax positions.

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. For fiscal 2012 and 2011, the Company had no provisions for interest or penalties related to uncertain tax positions.

### **Research, Development and Related Engineering Costs**

Research, development and related engineering costs are expensed as incurred.

### **Cost of Sales**

Cost of sales represents the associated expenses resulting from the processing, testing and storage of the umbilical cord blood and menstrual stem cell specimens.

### **Advertising**

Advertising costs are expensed as incurred and are included in selling, general and administrative expenses in the accompanying consolidated statements of operations. The total amount included in selling, general and administrative expenses for the fiscal years ended November 30, 2012 and 2011 was approximately \$692,000 and \$2,200,000, respectively.

**Table of Contents****Rent Expense**

Rent paid is expensed based on a straight-line basis over the term of the lease due to the existence of fixed escalation clauses in the leases, and is included in cost of sales and selling, general and administrative expenses in the accompanying consolidated statements of operations. All leases include provisions for escalations and related costs.

**Legal Expense**

Legal fees are expensed as incurred and are included in selling, general and administrative expenses in the accompanying consolidated statements of operations.

**Fair Value of Financial Instruments**

Management uses a fair value hierarchy, which gives the highest priority to quoted prices in active markets. The fair value of financial instruments is estimated based on market trading information, where available. Absent published market values for an instrument or other assets, management uses observable market data to arrive at its estimates of fair value. Management believes that the carrying amount of cash and cash equivalents, restricted cash, accounts receivable, notes receivable, accounts payable and accrued expenses. The Company believes that the fair value of its revenue sharing agreement's liability recorded on the balance sheet is between the recorded book value and up to the Company's recent settlement experience as discussed in Note 12, due to the various terms and conditions associated with each Revenue Sharing Agreement.

The Company uses an accounting standard that defines fair value as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the standard establishes a three-level fair value hierarchy that prioritizes the inputs used to measure fair value. The three levels of inputs used to measure fair value are as follows:

- Level 1 Quoted prices in active markets for identical assets or liabilities.
- Level 2 Observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

The following table summarizes our financial assets and liabilities measured at fair value on a recurring basis as of November 30, 2012 and 2011, respectively, segregated among the appropriate levels within the fair value hierarchy:

| Description        | Fair Value at<br>November 30,<br>2012 | Fair Value Measurements<br>at November 30, 2012 Using |         |         |
|--------------------|---------------------------------------|---|---------|---------|
|                    |                                       | Level 1   | Level 2 | Level 3 |
| <b>Assets:</b>     |                                       |   |         |         |
| Trading securities | \$ 13,660                             | \$ 13,660   |         |         |



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| Description                   | Fair Value at<br>November 30,<br>2011 | Fair Value Measurements<br>at November 30, 2011 Using |              |         |
|-------------------------------|---------------------------------------|---|--------------|---------|
|                               |                                       | Level 1   | Level 2      | Level 3 |
| <b>Assets:</b>                |                                       |   |              |         |
| Available-for-sale securities | \$ 1,008,404                          | \$ 6,404  | \$ 1,002,000 |         |

The following is a description of the valuation techniques used for these items, as well as the general classification of such items pursuant to the fair value hierarchy:

*Trading securities* The Company invested in exchange-traded equity securities of \$20,760 and \$0 at November 30, 2012 and November 30, 2011, respectively. Fair values for these investments are based on quoted prices in active markets and are therefore classified within Level 1 of the fair value hierarchy. There was \$7,100 in unrealized holding loss recorded in other income and expense on the accompanying consolidated statements of operations for the twelve months ended November 30, 2012.

*Available-for-sale securities* As of November 30, 2011, the Company invested \$1,002,000 in variable-rate demand notes. The interest rate on these variable rate demand notes resets every seven days to adjust to current market conditions. The Company could have redeemed these investments at cost at any time with seven days notice. Therefore, the investments were held at cost, which approximates fair value, and are classified as short-term investments on the accompanying consolidated balance sheets and within Level 2 of the fair value hierarchy. During fiscal 2012, the Company redeemed these variable-rate demand notes for an amount that closely approximated redemption date carrying value. As a result, no gain or loss was recognized upon redemption.

The Company further invested in exchange-traded equity securities of and \$0 and \$6,404 at November 30, 2012 and November 30, 2011, respectively. Fair values for these investments are based on quoted prices in active markets and are therefore classified within Level 1 of the fair value hierarchy.

The Company is permitted to make an election to carry certain eligible financial assets and liabilities at fair value, even if fair value measurement has not historically been required for such assets and liabilities under U.S. GAAP. The Company made no elections to record any such assets and or liabilities at fair value. Adjustments to the fair value in the Company's available-for-sale securities and other investments were reflected in accumulated other comprehensive loss.

**Product Warranty and Cryo-Cell Cares™ Program**

In December 2005, the Company began providing its customers that enrolled after December 2005 a payment warranty under which the Company agrees to pay \$50,000 to its client if the umbilical cord blood product retrieved is used for a stem cell transplant for the donor or an immediate family member and fails to engraft, subject to various restrictions. Effective February 1, 2012, the Company increased the \$50,000 payment warranty to a \$75,000 payment warranty to all of its new clients. Additionally, under the Cryo-Cell Cares™ program, the Company will pay \$10,000 to the client to offset personal expenses if the umbilical cord blood product is used for bone marrow reconstitution in a myeloblastic transplant procedure. The product warranty and the Cryo-Cell Cares program are available to clients who enroll under this structure for as long as the specimen is stored with the Company. The Company has not experienced any claims under the warranty program nor has it incurred costs related to these warranties. The Company does not maintain insurance for this warranty program and therefore maintains reserves to cover any estimated potential liabilities. The Company's reserve balance is based on the \$75,000 or \$50,000 (as applicable) maximum payment and the \$10,000 maximum expense reimbursement multiplied by formulas to determine the projected number of units requiring a payout. The Company determined the estimated expected usage and engraftment failure rates based on an

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analysis of the historical usage and failure rates and the historical usage and failure rates in other private and public cord blood banks based on published data. The Company's estimates of expected usage and engraftment failure could change as a result of changes in actual usage rates or failure rates and such changes would require an adjustment to the established reserves. The historical usage and failure rates have been very low and a small increase in the number of transplants or engraftment failures could cause a significant increase in the estimated rates used in determining the Company's reserve. In addition, the reserve will increase as additional umbilical cord blood specimens are stored which are subject to the warranty. As of November 30, 2012 and November 30, 2011 the Company recorded reserves under these programs in the amounts of \$14,485 and \$13,351, respectively, which are included in accrued expenses in the accompanying consolidated balance sheets.

**Loss per Common Share**

Basic (loss) income per common share was computed by dividing net loss by the weighted average number of common shares outstanding. Diluted loss per common share includes the effect of all dilutive stock options. The composition of basic and diluted net income per share is as follows:

|  | November 30, 2012 | November 30, 2011 |
|--|-------------------|-------------------|
| <b>Numerator:</b>  |                   |                   |
| Net Loss   | (\$ 6,308,470)    | (\$ 2,095,526)    |
| <b>Denominator:</b>  |                   |                   |
| Weighted-average shares outstanding - basic                    | 11,308,872        | 11,763,290        |
| Dilutive common shares issuable upon exercise of stock options |                   |                   |
| Weighted-average shares - diluted                              | 11,308,872        | 11,763,290        |
| <b>Loss per share:</b>   |                   |                   |
| Basic  | (\$ 0.56)         | (\$ 0.18)         |
| Diluted  | (\$ 0.56)         | (\$ 0.18)         |

For the years ended November 30, 2012 and November 30, 2011, the Company excluded the effect of all outstanding stock options from the computation of diluted loss per share, as the effect of potentially dilutive shares would be anti-dilutive. The number of outstanding options was 1,823,098 and 608,419 as of November 30, 2012 and November 30, 2011, respectively.

**Stock Compensation**

As of November 30, 2012, the Company has three stock-based employee compensation plans, which are described in Note 7. The Company's third stock-based employee compensation plan became effective December 1, 2011 as approved by the Board of Directors and approved by the stockholders at the 2012 Annual Meeting. The Company recognized approximately \$1,325,000 and \$329,000 for the years ended November 30, 2012 and November 30, 2011, respectively, of stock compensation expense. On May 30, 2012, the Company received a Nomination Solicitation Notice nominating six individuals for election as directors to compete with the Company's existing board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, if the Company receives a Nomination Solicitation Notice, as defined in the Company's Bylaws, all options that have been issued to the Co-CEOs will immediately vest. Included in the 2012 stock compensation expense is approximately \$700,000 that is due to the immediate vesting of the options issued to the Co-CEOs. Also included in the 2012 stock option expense is approximately \$171,000 due to the Company's election to accelerate certain advisory board options.

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The Company recognizes stock-based compensation based on the fair value of the related awards. Under the fair value recognition guidance of stock-based compensation accounting rules, stock-based compensation expense is estimated at the grant date based on the fair value of the award and is recognized as expense over the requisite service period of the award. The fair value of service-based vesting condition and performance-based vesting condition stock option awards is determined using the Black-Scholes valuation model. The Company estimates the fair value of stock option awards as of the grant date by applying the Black-Scholes option pricing model. For stock option awards with only service-based vesting conditions and graded vesting features, the Company recognizes stock compensation expense based on the graded-vesting method. To value awards with market-based vesting conditions the Company uses a binomial valuation model. The Company recognizes compensation cost for awards with market-based vesting conditions on a graded-vesting basis over the derived service period calculated by the binomial valuation model. The use of these valuation models involve assumptions that are judgmental and highly sensitive in the determination of compensation expense and include the expected life of the option, stock price volatility, risk-free interest rate, dividend yield, exercise price, and forfeiture rate. Forfeitures are estimated at the time of valuation and reduce expense ratably over the vesting period.

The estimation of stock awards that will ultimately vest requires judgment and to the extent that actual results or updated estimates differ from current estimates, such amounts will be recorded as a cumulative adjustment in the period they become known. The Company considered many factors when estimating forfeitures, including the recipient groups and historical experience. Actual results and future changes in estimates may differ substantially from current estimates.

The Company issues performance-based equity awards which vest upon the achievement of certain financial performance goals, including revenue and income targets. Determining the appropriate amount to expense based on the anticipated achievement of the stated goals requires judgment, including forecasting future financial results. The estimate of the timing of the expense recognition is revised periodically based on the probability of achieving the required performance targets and adjustments are made as appropriate. The cumulative impact of any revision is reflected in the period of the change. If the financial performance goals are not met, the award does not vest, so no compensation cost is recognized and any previously stock-recognized stock-based compensation expense is reversed.

The Company issues equity awards with market-based vesting conditions which vest upon the achievement of certain stock price targets. If the awards are forfeited prior to the completion of the derived service period, any recognized compensation is reversed. If the awards are forfeited after the completion of the derived service period, the compensation cost is not reversed, even if the awards never vest.

## **Recently Issued Accounting Pronouncements**

In June 2011, the FASB issued ASU 2011-05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income* ( ASU 2011-05 ). ASU 2011-05 will require companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements. It eliminates the option to present components of other comprehensive income as part of the changes in stockholders' equity. The standard does not change the items which must be reported in other comprehensive income, how such items are measured or when they must be reclassified to net income. ASU 2011-05 is effective for interim and annual periods beginning after December 15, 2011, with early adoption permitted. The Company will adopt ASU 2011-05 when required in the first quarter of 2013. The adoption of ASU 2011-05 will only impact presentation and will not have any effect on the Company's consolidated financial statements or on its financial condition.

In December 2011, the FASB issued Accounting Standards Update No. 2011-12: *Comprehensive Income (Topic 220): Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05 (ASU 2011-12)*.

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The Update defers the specific requirement to present items that are reclassified from accumulated other comprehensive income to net income separately with their respective components of net income and other comprehensive income. As part of this update, the FASB did not defer the requirement to report comprehensive income either in a single continuous statement or in two separate but consecutive financial statements. ASU 2011-12 is effective for annual periods beginning after December 15, 2011. The Company will adopt ASU 2011-12 in the first quarter of 2013. The adoption will not have an impact on the Company's consolidated financial statements.

In February 2013, the FASB issued Accounting Standards Update No. 2013-02, *Comprehensive Income (Topic 220): Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income* (ASU 2013-02). This update will require companies to present information about amounts reclassified out of accumulated other comprehensive income and their corresponding effect on net income in one place and reference the amounts to the related footnote disclosures. Current accounting standards present this information in different places throughout the financial statements. ASU 2013-02 is effective for interim and annual periods beginning after December 15, 2012, with early adoption permitted. The adoption of ASU 2013-02 will only impact disclosure requirements and will not have any effect on the Company's consolidated financial statements or on its financial condition.

### **NOTE 2 - MARKETABLE SECURITIES AND OTHER INVESTMENTS.**

#### **Marketable Securities**

The Company accounts for marketable securities and other investments at fair value.

Marketable securities, consisting of variable rate demand notes, were \$0 and \$1,002,000 at November 30, 2012 and 2011, respectively. The Company purchased variable rate demand notes. The interest rate on the variable rate demand notes reset every seven days to adjust to current market conditions. The Company could redeem these demand notes at cost at any time with seven days notice. Therefore, the investments were held at cost, which approximates fair value, and were classified as short-term investments on the accompanying consolidated balance sheets. The Company holds these investments as available for sale.

Marketable securities consisting of trading securities were \$20,760 and \$0 at November 30, 2012 and 2011. Fair values for these investments are based on quoted prices in active markets. There was \$7,100 in unrealized holding loss recorded in other income and expense on the accompanying consolidated statements of operations for the twelve months ended November 30, 2012.

#### **Other Investments**

The Company uses the guidance as described above, to account for the other investments. The fair value of other investments as of November 30, 2012 and 2011 was approximately \$0 and \$6,400, respectively. There was no unrealized holding gain or loss recorded as a component of stockholders' deficit on other investments as of November 30, 2012 and 2011, respectively.

### **NOTE 3 - INVESTMENTS IN AFFILIATES.**

#### **Saneron CCEL Therapeutics, Inc.**

For each of the years ended November 30, 2012 and 2011 the Company had an ownership interest of approximately 34% in Saneron, which is accounted for under the equity method of accounting. During 2006, the Company ceased recording equity in losses once the investment balance was written down to the total amount of goodwill, as goodwill is not amortized. As of November 30, 2012 and 2011, the net Saneron investment, which consists solely of goodwill, is reflected on the consolidated balance sheets at \$684,000. During 2012 and 2011, management reviewed the Saneron investment to determine if there were any indicators that would imply that the investment was impaired. Based on management's review, there were no indicators of impairment and goodwill was not impaired during 2012 or 2011.

For the fiscal year ended November 30, 2012 and 2011, the Company recorded equity in losses of Saneron operations of approximately \$155,000 and \$227,000, respectively. Equity in losses of affiliate for the year ended November 30, 2012 consists of approximately \$155,000 related to compensation expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and

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serve on its board of directors. Equity in losses of affiliate for the year ended November 30, 2011 consists of approximately \$133,000 related to compensation expense for stock and warrant awards that were granted by Saneron at below fair market value to certain employees, consultants and members of Saneron management who represent owners of Saneron and serve on its board of directors as well as approximately \$94,000 of historical losses from Saneron that have been realized in prior periods and were not material to any periods presented. The Company will continue to record equity in losses of affiliate related to stock compensation expense as this increases additional paid-in capital and does not affect the investment balance.

As of November 30, 2012 and 2011, the Company has classified the Company's portion of the value of Company stock held by Saneron of approximately \$485,000, within stockholders' equity as treasury stock.

In January 2008, the Company announced that it has formalized a research and development agreement with Saneron to develop regenerative therapies utilizing Cryo-Cell's menstrual stem cell technology. Cryo-Cell and Saneron will collaborate on research in pre-clinical models for certain neurological diseases and disorders. Under terms of the agreement, the Company will provide Saneron with menstrual stem cells along with proprietary methodology associated with the technology. Saneron will provide study materials and develop research methodology for potential therapeutic applications associated with designated pre-clinical applications. Intellectual property resulting from this research collaboration will be jointly owned by the parties.

**NOTE 4 - PROPERTY AND EQUIPMENT.**

The major classes of property and equipment are as follows:

|                                  | <b>2012</b>  | <b>2011</b>  |
|----------------------------------|--------------|--------------|
| Furniture and equipment          | \$ 4,621,543 | \$ 4,479,200 |
| Leasehold improvements           | 1,156,110    | 1,176,570    |
| Computer software - internal use | 799,041      | 799,041      |
|                                  | 6,576,694    | 6,454,811    |
| Less: Accumulated Depreciation   | (5,295,619)  | (4,914,572)  |
| Total Property and Equipment     | \$ 1,281,075 | \$ 1,540,239 |

Depreciation expense was approximately \$393,000 in fiscal 2012 and approximately \$540,000 in fiscal 2011 of which approximately \$210,000 and \$219,000 is included in cost of sales, respectively, in the accompanying consolidated statements of operations.

**Table of Contents****NOTE 5 - ACCRUED EXPENSES.**

Accrued expenses are as follows:

|                               | November 30,        |                     |
|-------------------------------|---------------------|---------------------|
|                               | 2012                | 2011                |
| Legal and accounting          | \$ 145,724          | \$ 177,649          |
| Payroll and payroll taxes (1) | 1,351,077           | 1,065,760           |
| Interest expense              | 419,198             | 730,593             |
| General expenses              | 1,001,759           | 342,873             |
|                               | <b>\$ 2,917,758</b> | <b>\$ 2,316,875</b> |

- (1) Payroll and payroll taxes includes accrued vacation and wages due as of November 30, 2012 and November 30, 2011. Also, included as of November 30, 2012 and November 30, 2011 is approximately \$950,000 in severance related to lost salary, bonuses and benefits that Mercedes Walton could be entitled to in accordance with Ms. Walton's employment agreement dated August 15, 2006, as amended July 16, 2007. See Note 16.

**NOTE 6 - INCOME TAXES.**

The Company recorded the following income tax provision for the years ended November 30, 2012 and 2011.

|                      | 2012                | 2011              |
|----------------------|---------------------|-------------------|
| Current:             |                     |                   |
| Federal              | \$                  | \$                |
| State                |                     |                   |
| Foreign              | 169,000             | 172,000           |
| Subtotal             | 169,000             | 172,000           |
| Deferred:            |                     |                   |
| Federal              | 1,561,700           |                   |
| State                | 157,300             |                   |
| Foreign              |                     |                   |
| Subtotal             | 1,719,000           |                   |
| Income Tax Provision | <b>\$ 1,888,000</b> | <b>\$ 172,000</b> |

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As of November 2012 and 2011 the tax effects of temporary differences that give rise to the deferred tax assets are as follows:

|   | <b>Current</b>    | <b>2012<br/>Non-current</b> | <b>Total</b>        |
|---|-------------------|-----------------------------|---------------------|
| <b>Tax Assets:</b>                              |                   |                             |                     |
| Deferred income (Net of Discounts)              | \$ 214,000        | \$ 3,366,000                | \$ 3,580,000        |
| NOL s, credits, and other carryforward items    |                   | 3,284,000                   | 3,284,000           |
| Tax over book basis in unconsolidated affiliate |                   | 1,227,000                   | 1,227,000           |
| Accrued payroll                                 | 41,000            |                             | 41,000              |
| Reserves and other accruals                     | 1,232,000         |                             | 1,232,000           |
| Stock compensation                              |                   | 383,000                     | 383,000             |
| Depreciation and Amortization                   |                   | 37,000                      | 37,000              |
| RSA Buy-out                                     |                   | 1,163,000                   | 1,163,000           |
| <b>Total Assets:</b>                            | <b>1,487,000</b>  | <b>9,460,000</b>            | <b>10,947,000</b>   |
| Less: Valuation Allowance                       | (1,487,000)       | (9,460,000)                 | (10,947,000)        |
| <b>Net Deferred Tax Asset</b>                   | <b>\$</b>         | <b>\$</b>                   |                     |
| <br>  |                   |                             |                     |
|   | <b>Current</b>    | <b>2011<br/>Non-current</b> | <b>Total</b>        |
| <b>Tax Assets:</b>                              |                   |                             |                     |
| Deferred income (Net of Discounts)              | \$ 215,000        | \$ 3,811,000                | \$ 4,026,000        |
| NOL s, credits, and other carryforward items    |                   | 3,223,000                   | 3,223,000           |
| Tax over book basis in unconsolidated affiliate |                   | 1,247,000                   | 1,247,000           |
| Accrued payroll                                 | 28,000            |                             | 28,000              |
| Reserves and other accruals                     | 890,000           |                             | 890,000             |
| Deferred compensation                           |                   | 27,000                      | 27,000              |
| Stock compensation                              |                   | 77,000                      | 77,000              |
| <b>Total Assets:</b>                            | <b>1,133,000</b>  | <b>8,385,000</b>            | <b>9,518,000</b>    |
| <b>Tax Liabilities:</b>                         |                   |                             |                     |
| Depreciation and amortization                   | \$                | (\$ 43,000)                 | (\$ 43,000)         |
| Less: Valuation Allowance                       | (923,000)         | (6,833,000)                 | (7,756,000)         |
| <b>Net Deferred Tax Asset (Liability)</b>       | <b>\$ 210,000</b> | <b>\$ 1,509,000</b>         | <b>\$ 1,719,000</b> |

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A valuation allowance covering the deferred tax assets of the Company for November 30, 2012 and November 30, 2011, has been provided as the Company does not believe it is more likely than not that all of the future income tax benefits will be realized. The valuation allowance increased by approximately \$3,191,000 and \$784,000, respectively, for the years ended November 30, 2012 and 2011. The 2012 increase was a result of a full valuation allowance being applied against the deferred tax assets as management had concluded in the second quarter of 2012 to fully reserve the deferred income tax assets as it is more likely than not that the deferred tax assets will not be realized. The decision resulted in a charge to income tax expense of \$1,719,000 for the year ended November 30, 2012. The 2011 increase was predominantly a result of an increased deferred tax asset related to accrued expenses and foreign tax credits.

The Company has unused net operating losses available for carryforward as of November 30, 2012 of approximately \$5,654,000 to offset future federal taxable income. The net operating loss carryforwards expire during 2022 through 2030. The Tax Reform Act of 1986 contains provisions that limit the utilization of net operating losses if there has been an ownership change. Such an ownership change as described in Section 382 of the Internal Revenue code may limit the Company's utilization of its net operating loss carryforwards. Management has completed an internal analysis of potential ownership changes and has concluded that no ownership changes have occurred through November 30, 2012 which would potentially limit the utilization of the net operating losses.

A reconciliation of the income tax provision with the amount of tax computed by applying the federal statutory rate to pretax income follows:

|                                 | For the Years Ended November 30, 2012 |             |                   |            |
|---------------------------------|---------------------------------------|-------------|-------------------|------------|
|                                 | 2012                                  | %           | 2011              | %          |
| Tax at Federal Statutory Rate   | (1,560,000)                           | (34.0)      | (712,000)         | (34.0)     |
| State Income Tax Effect         | (167,000)                             | (3.6)       | (76,000)          | (3.6)      |
| Increase in valuation allowance | 3,191,000                             | 69.5        | 784,000           | 37.4       |
| Permanent Disallowances         | 424,000                               | 9.2         | 176,000           | 8.4        |
| Capital loss expirations        | 0                                     | 0           | 0                 | 0          |
| Foreign tax credits             | (169,000)                             | (3.7)       | (172,000)         | (8.2)      |
| Foreign tax withholding         | 169,000                               | 3.7         | 172,000           | 8.2        |
| Other                           | 0                                     | 0           | 0                 | 0          |
| <b>Total income taxes</b>       | <b>\$ 1,888,000</b>                   | <b>41.1</b> | <b>\$ 172,000</b> | <b>8.2</b> |

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. For the years ended November 30, 2012 and 2011, the Company had no uncertain tax positions and therefore there are no provisions for interest or penalties related to uncertain tax positions.



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The Company or one of its subsidiaries files income tax returns in the U.S. federal jurisdiction, and various state jurisdictions. The table below summarizes the open tax years and ongoing tax examinations in major jurisdictions as of November 30, 2012:

| Jurisdiction  |                    | Open Tax Years | Examinations in Process |
|---------------|--------------------|----------------|-------------------------|
| United States | Federal Income Tax | 2008 - 2011    | N/A                     |
| United States | Various States     | 2007 - 2011    | N/A                     |

**NOTE 7 - STOCKHOLDERS EQUITY.****Common Stock Issuances**

During the year ended November 30, 2012, there were 33,562 options exercised using the net exercise method included as part of the original terms of each award. Under the net exercise method, the option holders surrendered 26,749 options to cover the total cost of exercising the stock options resulting in 6,813 net common shares being issued. During the year ended November 30, 2011, the Company issued 68,417 common shares to option holders who exercised options for \$80,936. Further, during the year ended November 30, 2011, certain option holders exercised 56,667 options, using the net exercise method. Under the net exercise method, the option holders surrendered 24,431 options, to cover the total cost of exercising the stock options resulting in net common shares of 32,236 being issued. The result of a smaller number of shares being issued to the option holder caused less dilution and fewer shares used from the option plan.

**Employee Stock Incentive Plan**

The Company maintains the 2000 Stock Incentive Plan as amended (the 2000 Plan) that has reserved 2,250,000 shares of the Company's common stock for issuance pursuant to stock options or restricted stock. Options issued under the Plan have a term ranging from five to seven years from the date of grant and have a vesting period ranging from immediately upon issuance to three years from the date of grant. The options are exercisable for a period of 90 days after termination. As of November 30, 2012 and November 30, 2011, there were 60,589 and 99,292 shares outstanding under the 2000 Plan, respectively. No further options will be issued under the 2000 Plan.

The Company also maintains the 2006 Stock Incentive Plan (the 2006 Plan) under which it has reserved 1,000,000 shares of the Company's common stock for issuance pursuant to stock options, restricted stock, stock-appreciation rights (commonly referred to as SARs) and stock awards (i.e. performance options to purchase shares and performance units). As of November 30, 2012 and November 30, 2011, there were 762,509 and 509,127 shares issued, but not yet exercised, under the 2006 plan, respectively. As of November 30, 2012, there were 151,345 shares available for future issuance under the 2006 plan.

The Company also maintains the 2012 Equity Incentive Plan (the 2012 Plan) which became effective December 1, 2011 as approved by the Board of Directors and approved by the stockholders at the 2012 Annual Meeting on July 10, 2012. The 2012 Plan originally reserved 1,500,000 shares of the Company's common stock for issuance pursuant to stock options, restricted stock, SARs, and other stock awards (i.e. performance shares and performance units). In May 2012, the Board of Directors approved an amendment to the Plan to increase the number of shares of the Company's common stock reserved for issuance under the 2012 Plan to 2,500,000 shares. As of November 30, 2012, there were 1,000,000 performance options to purchase shares granted under the 2012 plan and 1,500,000 shares available for future issuance.

*Service-based vesting condition options*

The fair value of each option award is estimated on the date of the grant using the Black-Scholes valuation model that uses the assumptions noted in the following table. Expected volatility is based on the historical volatility of the Company's stock over the most recent period commensurate with the

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expected life of the Company's stock options. The Company uses historical data to estimate option exercise and employee termination within the valuation model. The risk-free rate for periods within the contractual life of the option is based on the U.S. Treasury yield curve in effect at the time of grant. The expected term of options granted to employees is calculated, in accordance with the simplified method for plain vanilla stock options allowed under GAAP. Expected dividends are based on the historical trend of the Company not issuing dividends.

Variables used to determine the fair value of the options granted for the years ended November 30, 2012 and November 30, 2011 are as follows:

|                                 | 2012      | 2011      |
|---------------------------------|-----------|-----------|
| <b>Weighted average values:</b> |           |           |
| Expected dividends              | 0%        | 0%        |
| Expected volatility             | 113%      | 108%      |
| Risk free interest rate         | .87%      | 1.20%     |
| Expected life                   | 5.5 years | 5.5 years |

Stock option activity for options with only service-based vesting conditions for the year ended November 30, 2012, was as follows:

|   | Options          | Weighted Average Exercise Price | Weighted Average Remaining Contractual Term (Years) | Aggregate Intrinsic Value |
|---|------------------|---------------------------------|---|---------------------------|
| Outstanding at November 30, 2011        | 608,419          | \$ 2.40                         | 6.38  | \$ 37,490                 |
| Granted                                 | 779,500          | 1.93                            |   | 474,765                   |
| Exercised                               | (33,562)         | 1.83                            |   | 22,801                    |
| Expired/forfeited                       | (171,259)        | 2.10                            |   | 91,830                    |
| <b>Outstanding at November 30, 2012</b> | <b>1,183,098</b> | <b>\$ 2.15</b>                  | <b>7.12</b>   | <b>\$ 580,730</b>         |
| Exercisable at November 30, 2012        | 931,695          | \$ 2.13                         | 7.42  | \$ 493,223                |

The weighted average grant date fair value of options granted during the years ended November 30, 2012 and November 30, 2011 was \$1.57 and \$2.12, respectively.

The aggregate intrinsic value represents the total value of the difference between the Company's closing stock price on the last trading day of the period and the exercise price of the options, multiplied by the number of in-the-money stock options that would have been received by the option holders had all option holders exercised their options on either November 30, 2011 or November 30, 2012, as applicable. The intrinsic value of the Company's stock options changes based on the closing price of the Company's stock.

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Significant option groups outstanding and exercisable at November 30, 2012 and related price and contractual life information are as follows:

| Range of Exercise Prices | Outstanding | Outstanding<br>Weighted<br>Average<br>Remaining<br>Contractual<br>Life (Years) | Weighted<br>Average<br>Exercise Price | Exercisable |                                       |
|--------------------------|-------------|--|---------------------------------------|-------------|---------------------------------------|
|                          |             |  |                                       | Outstanding | Weighted<br>Average<br>Exercise Price |
| \$0.42 to \$1.00         | 10,000      | 2.45   | \$ .78                                | 10,000      | \$ .78                                |
| \$1.01 to \$ 2.00        | 533,009     | 7.79   | \$ 1.68                               | 501,601     | \$ 1.69                               |
| \$2.01 to \$ 3.00        | 599,500     | 7.05   | \$ 2.51                               | 379,505     | \$ 2.61                               |
| \$3.01 to \$ 4.00        | 40,589      | .35  | \$ 3.34                               | 40,589      | \$ 3.34                               |
|                          | 1,183,098   | 7.12   | \$ 2.15                               | 931,695     | \$ 2.13                               |

A summary of the status of the Company's non-vested shares as of November 30, 2012, and changes during the fiscal year ended November 30, 2012, is presented below:

|                                 | Shares    | Weighted Average<br>Grant-Date<br>Fair Value |
|---------------------------------|-----------|--|
| Non-vested at November 30, 2011 | 353,277   | \$ 1.94                                      |
| Granted                         | 779,500   | 1.57   |
| Vested                          | (765,487) | 1.67   |
| Forfeited                       | (115,887) | 1.65   |
| Non-vested at November 30, 2012 | 251,403   | \$ 1.77                                      |

As of November 30, 2012, there was approximately \$250,000 of total unrecognized compensation cost related to non-vested share-based compensation arrangements granted under the 2000 Plan, the 2006 Plan and the 2012 Plan. The cost is expected to be recognized over a weighted-average period of 1.65 years as of November 30, 2012. The total fair value of options vested during the fiscal year ended November 30, 2012 was approximately \$1,276,000. In October 2012, the Company elected to accelerate certain advisory board options which resulted in the Company recording stock option compensation of approximately \$171,000 for the fiscal year 2012.

*Performance and market-based vesting condition options*

Variables used to determine the fair value of options with performance-based and market-based vesting conditions granted during the fiscal year ended November 30, 2012 are as follows:

|                          | 2012      |
|--------------------------|-----------|
| Weighted average values: |           |
| Expected dividends       | 0%        |
| Expected volatility      | 107.03%   |
| Risk free interest rate  | 1.00%     |
| Expected life            | 6.4 years |



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Stock option activity for options with performance-based and market-based vesting conditions for the fiscal year ended November 30, 2012, was as follows:

|   | Options   | Weighted<br>Average<br>Exercise<br>Price | Weighted<br>Average<br>Remaining<br>Contractual<br>Life (Years) | Aggregate<br>Intrinsic Value |
|---|-----------|--|---|------------------------------|
| <b>Outstanding at November 30, 2011</b> |           |  |   |                              |
| Granted                                 | 1,170,000 | \$ 1.73                                  |   |                              |
| <b>Exercised</b>                        |           |  |   |                              |
| Expired/forfeited                       | (530,000) | 1.72                                     |   |                              |
| <b>Outstanding at November 30, 2012</b> |           |  |   |                              |
|   | 640,000   | \$ 1.73                                  | 7.59  | \$ 274,800                   |

Exercisable at November 30, 2012

The weighted average grant date fair value of performance and market-based vesting conditions options granted during the fiscal year ended November 30, 2012 was \$1.28.

During the fiscal year ended November 30, 2012, the Company granted 213,334 options that begin to vest based on the achievement of certain share prices of the Company's common stock at certain future dates. For market-based vesting condition options, accounting principles do not require that the market condition be met in order for the compensation cost to be recognized. Fair value of these options has been determined using a binomial model and is being recognized over the requisite service period, regardless if the market condition will be met. As of November 30, 2012 there was approximately \$121,500 of total unrecognized compensation cost related to the non-vested market-based vesting condition options.

The remaining 956,666 options granted to executives and consultants during the fiscal year ended November 30, 2012 require certain performance targets to be met before vesting can occur. Management has deemed these performance targets to be improbable as of November 30, 2012 and thus no compensation cost has been recognized through this date. The Company will reevaluate the probability of achieving these targets on a quarterly basis, and adjust compensation expense accordingly. In addition, any compensation expense as a result of consultant options, will be re-measured on a quarterly basis, over the period the service is being provided to the Company. As of November 30, 2012 there was approximately \$616,000 of total unrecognized compensation cost related to the non-vested performance-based vesting condition options. If the performance conditions are not achieved by a certain date as specified in each option agreement, no compensation expense associated with these performance based options will be recognized. Total unrecognized compensation cost may fluctuate from quarter to quarter as performance based options issued to consultants are marked to market over the requisite service period.

**NOTE 8 - LICENSE AGREEMENTS**

The Company has entered into licensing agreements with certain investors in various international markets in an attempt to capitalize on the Company's technology. The investors typically pay a licensing fee to receive Company marketing programs, technology and know-how in a selected area. The licensing agreement may also give the investor the right to sell sub-license agreements. As part of the accounting for the up-front license revenue, revenue from the up-front license fee is recognized based on such factors as when the payment is due, collectability and when all material services or conditions relating to the sale have been substantially performed based on the terms of the agreement.

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The Company enters into two types of licensing agreements and in both types, the Company earns revenue on the initial license fees. Under the technology agreements, the Company earns processing and storage royalties from the affiliates that process in their own facility. Under the marketing agreements, the Company earns processing and storage revenues from affiliates that store specimens in the Company's facility in Oldsmar, Florida.

### **Technology Agreements**

The Company has entered into definitive License and Royalty Agreements with Cryo-Cell de Mexico ( Mexico ) and Asia Cryo-Cell Private Limited to establish and market its umbilical cord blood program in Mexico and India, respectively.

The Company has entered into definitive License and Royalty Agreements with Asia Cryo-Cell Private Limited and S-Evans Bio-Sciences, Inc. to establish and market its menstrual stem cell program in India and China, respectively.

On August 19, 2011, the Company received notification from Mexico that they were terminating the license agreement effective immediately due to an alleged breach of the license agreement. On October 17, 2011, the Company and Mexico entered into an amendment to the license agreement whereby the termination has been revoked and Mexico will pay the Company \$1,863,000 in 37 monthly installments of \$50,000 beginning on October 17, 2011 with a final payment of \$13,000. Mexico will have no other continuing obligations to the Company for royalties or other license payments and the agreement will be effectively terminated once the entire \$1,863,000 has been received. Mexico also has the option to pay off the amount early with no penalties. The amendment is expected to result in a reduction of licensee income in future periods.

As of November 30, 2012 and November 30, 2011, the Company recorded a receivable of \$1,115,505 and \$1,656,476, respectively, and deferred revenue of \$1,104,623 and \$1,633,910, respectively, in the accompanying consolidated balance sheets. Accounts receivable is calculated using the present value of all of the monthly installments using a discount rate that reflects both the risk-free rate at the inception of the contract and the contract period. In accordance with the agreement, the Company received twelve installments of \$50,000 or \$600,000 which is reflected in the consolidated statement of operations at November 30, 2012 as licensee and interest income. In accordance with the agreement, the Company received two installments of \$50,000 which is reflected in the consolidated statement of operations at November 30, 2011 as licensee and interest income. The installment amounts that are to be received and recognized within the next twelve months have been classified as short-term in the accompanying consolidated balance sheets.

### **Marketing Agreements**

The Company has definitive license agreements to market both the Company's umbilical cord blood and menstrual stem cell programs in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Pakistan. In October 2012, the Company sent notice of termination to the Company's Venezuelan affiliate for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Venezuela. The Company is in the process of discussing a new agreement. The Company continues to accept umbilical cord blood and menstrual stem cell specimens to be processed and stored during the negotiations. In December 2012, the Company sent notice of termination to the Company's affiliate in Ecuador for failure to meet its payment obligation in accordance with the contract. Subsequent to the notice of termination, payment was received for outstanding processing and storage fees due from Ecuador. The Company is in the process of discussing a new agreement. The Company continues to accept umbilical cord blood and menstrual stem cell specimens to be processed and stored during the negotiations.

Processing and storage revenues from specimens originating in territories that store at the Company's facility in Oldsmar, Florida totaled approximately \$1,595,000 and \$1,421,000 for fiscal years 2012 and 2011 and are reflected in processing and storage fees in the accompanying consolidated statements of operations.

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The following table details the initial license fees for the technology and marketing agreements and processing and storage royalties earned for the technology agreements for fiscal years 2012 and 2011. The initial license fees and processing and storage royalties are reflected in licensee income in the accompanying consolidated statements of operations.

|              | For the years ended November 30, |                               |                     |                  |                               |                     |
|--------------|----------------------------------|-------------------------------|---------------------|------------------|-------------------------------|---------------------|
|              | 2012                             |                               |                     | 2011             |                               |                     |
|              | License Fee                      | Process and Storage Royalties | Total               | License Fee      | Process and Storage Royalties | Total               |
| China        | \$                               | \$                            | \$                  | \$               | \$ 50,000                     | \$ 50,000           |
| India        |                                  | 677,647                       | 677,647             |                  | 677,647                       | 677,647             |
| Mexico       |                                  | 619,171                       | 619,171             |                  | 595,306                       | 595,306             |
| Costa Rica   | 25,000                           |                               | 25,000              | 15,983           |                               | 15,983              |
| Germany (1)  |                                  |                               |                     | 9,769            |                               | 9,769               |
| Nicaragua    | 20,000                           |                               | 20,000              | 15,000           |                               | 15,000              |
| <b>Total</b> | <b>\$ 45,000</b>                 | <b>\$ 1,296,818</b>           | <b>\$ 1,341,818</b> | <b>\$ 40,752</b> | <b>\$ 1,322,953</b>           | <b>\$ 1,363,705</b> |

- (1) Innovative Medical Solutions SRL ( Germany ) advised the Company that it intends to terminate the umbilical cord blood and menstrual stem cell license agreements. Per the terms of the agreements, Germany owed the Company \$50,000 on October 1, 2010. For the years ended November 30, 2012 and the November 30, 2011, Germany paid the Company \$0 and \$9,769, respectively, which is reflected in the accompanying consolidated statements of operations. The Company has not recorded any additional revenue associated with the two agreements in the Company's consolidated statements of operations for the years ended November 30, 2012 and 2011, as the collectability is uncertain.

**NOTE 9 - COMMITMENTS AND CONTINGENCIES****Employment Agreements**

The Company has employment agreements in place for certain members of management. These employment agreements which include severance arrangements, are for periods ranging from one to two years and contain certain provisions for severance payments in the event of termination or change of control.

**Deferred Consulting Obligation**

The Company entered into a long-term consulting agreement with a former officer to provide future consulting services to the Company. This agreement was terminated and following negotiations, a confidential agreement was negotiated by the parties. The Company commenced payments under the terms of the new agreement during fiscal 2005. In fiscal 2012 and 2011, the Company recognized \$1,663 and \$9,338, respectively, of interest expense related to this agreement. The remaining deferred consulting obligation was \$0 and \$72,183, as of November 30, 2012 and 2011, respectively. During the third quarter of fiscal 2012, the Company fulfilled its obligation of the deferred consulting agreement.

**Table of Contents****NOTE 10 - LEASES.**

During April 2004, the Company entered into a ten-year lease for its corporate headquarters in Oldsmar, Florida. On June 7, 2006, the Company entered into a lease amendment whereby, the Company leased an additional 9,600 square feet of space at the same location. All leases include provisions for escalations and related costs. The Company records rental expense under the straight-line method over the term of the lease. Rent charged to operations was \$270,847 and \$274,215 for the fiscal years ended November 30, 2012 and 2011, respectively and is included in cost of sales and selling, general and administrative expenses in the consolidated statements of operations.

The future minimum rental payments under these operating leases are as follows:

| Fiscal Year Ending November 30, | Rent       |
|---------------------------------|------------|
| 2013                            | \$ 323,255 |
| 2014                            | \$ 333,064 |
| 2015                            | \$ 28,048  |

**NOTE 11 - RETIREMENT PLAN.**

In January 1997, the Company adopted a 401(k) retirement plan (the 401(k) Plan), which allows eligible employees to allocate up to 15% of their salaries. In fiscal 2008, the Company implemented an employer match up to certain limits. In fiscal 2010, the Company implemented a Safe Harbor provision with matching contributions up to certain limits. For the years ended November 30, 2012 and November 30, 2011, the Company made matching contributions of approximately \$68,000 and \$67,000, respectively, to the 401(k) Plan.

**NOTE 12 - REVENUE SHARING AGREEMENTS ( RSAs )**

The Company entered into RSAs prior to 2002 with various third and related parties. The Company's RSAs provide that in exchange for a non-refundable up-front payment, the Company would share for the duration of the contract a percentage of its future revenue derived from the annual storage fees charged related to a certain number of specimens that originated from specific geographical areas. The RSAs have no definitive term or termination provisions. The sharing applies to the storage fees collected for all specified specimens in the area up to the number covered in the contract. When the number of specimens is filled, any additional specimens stored in that area are not subject to revenue sharing. As there are empty spaces resulting from attrition, the Company agrees to fill them as soon as possible. The Company has reflected these up-front payments as long-term liabilities on the accompanying consolidated financial statements. The Company does not intend to enter into additional RSAs.

In the future, the Company could reverse the liability relating to the RSAs over an appropriate period of time, based on the Company's expectations of the total amount of payments it expects to pay to the other party under the particular revenue sharing agreement. However, the RSAs do not establish a finite term or time frame over which to estimate the total payments and the Company had not previously estimated and has concluded that it is not currently practicable to estimate the projected cash flows under the RSAs. At present, the Company intends to defer the reversal of the liability, until such time as these amounts can be determined. During the periods when the Company defers the reversal of the liability, the quarterly payments made during these periods will be treated as interest expense, which will be recognized as the payments become due. In future periods, if a portion of the liability can be de-recognized based on the effective interest method, the payments will be allocated between interest and amortization of the liability. As cash is paid out to the other party during any period, the liability would



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be de-recognized based on the portion of the total anticipated payouts made during the period, using the effective interest method. That is, a portion of the payment would be recorded as interest expense, and the remainder would be treated as repayment of principal, which would reduce the liability.

**Florida.** On February 9, 1999, the previous agreements with the Company's Arizona Revenue Sharing investors were modified and replaced by a revenue sharing agreement for the state of Florida for a price of \$1,000,000. The revenue sharing agreement applies to net storage revenues originating from specimens from within the state of Florida. The revenue sharing agreement entitles the investors to revenues of up to a maximum of 33,000 storage spaces. A former member of the Board of Directors of the Company is a 50% owner of this revenue sharing agreement. The revenue sharing agreement was entered into prior to the time he became a member of the Board from which he resigned during December 2004.

**Illinois.** In 1996, the Company signed agreements with a group of investors entitling them to an on-going 50% share of the Company's 75% share of the annual storage fees ( net storage revenues ) less a deduction for 50% of billing and collection expenses generated by specimens stored in the Illinois Masonic Medical Center for a price of \$1,000,000. The agreements were modified in 1998 to entitle the investors to a 50% share of the Company's 75% share of the annual storage fees (net storage revenues) less a deduction for 50% of billing and collection expenses relating to specimens originating in Illinois and its contiguous states and stored in Oldsmar, Florida for a maximum of up to 33,000 storage spaces.

**New York.** On February 26, 1999, the Company entered into a modified revenue sharing agreement with Bio-Stor International, Inc. ( Bio-Stor ) for the state of New York. The Company credited the \$900,000 Bio-Stor had previously paid toward the purchase of 90% of the Company's 50% portion of net storage revenues generated from the specimens originating from the Company's clients in the state of New York for up to 33,000 shared storage spaces. This agreement supersedes all other agreements between Bio-Stor and the Company.

On November 5, 1998, an agreement previously entered into with a private investor was revised. Per the terms of the original agreement, the investor had purchased 10% of a revenue sharing agreement in the state of New Jersey. The 1998 agreement transferred the \$100,000 investment such that it now applies to the state of New York. Under the revised agreement the investor will receive 10% of the 50% share in the Company's portion of net storage revenues generated by the specimens originating from the Company's clients in the state of New York for up to 33,000 spaces.

**Texas.** On May 31, 2001, the Company entered into an agreement with Red Rock Partners, an Arizona general partnership, entitling them to on-going shares in a portion of the Company's net storage revenue generated by specimens originating from within the State of Texas for a price of \$750,000. The investors are entitled to a 37.5% share of net storage revenues originating in the State of Texas to a maximum of 33,000 storage spaces. The same former member of the Board of Directors is a 50% owner of Red Rock. The revenue sharing agreement was entered into prior to the time he became a member of the Board, from which he resigned during December 2004. During fiscal 2008, Red Rock assigned 50% of their interest in the agreement to SCC Investments, Inc., an Arizona corporation. During fiscal year 2010, SCC Investments, Inc. assigned its interest to SCF Holdings, LLC, an Arizona limited liability company.

The Company made total payments to all RSA holders of \$807,098 and \$1,408,726 for the fiscal years ended November 30, 2012 and 2011, respectively. The Company recorded an RSA accrual of \$419,198 and \$730,524 as of November 30, 2012 and 2011, respectively, related to interest owed to the RSA holders.

**Table of Contents*****Extinguishment of RSAs***

In December 2011, the Company entered into an Asset Purchase Agreement with Bio-Stor canceling the Bio-Stor Revenue Sharing Agreement ( RSA ). Pursuant to the terms of the Asset Purchase Agreement, in December 2011, the Company made a one-time, lump-sum payment in the amount of \$2.3 million to Bio-Stor, and Bio-Stor sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in the RSA. The payment amount of \$2.3 million was offset by the carrying amount of the liability related to Bio-Stor in the amount of \$900,000 and an accrued expense in the amount of \$172,610 to reflect the extinguishment of debt in the amount of \$1,227,390 for the twelve months ended November 30, 2012. The long-term liability related to Bio-Stor in the amount of \$900,000 was reclassified and was reflected as short-term liability revenue sharing agreements in the accompanying consolidated balance sheets as of November 30, 2011.

In May 2012, the Company entered into Asset Purchase Agreements with two investors who each had a 22% interest in 45% of the Illinois Revenue Sharing Agreement ( Illinois RSA ). Pursuant to the terms of the Asset Purchase Agreements, in May 2012, the Company made a one-time, lump-sum payment in the amount of \$138,000 to each of the investors, and the investors sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in their 22% interest of 45% of the Illinois RSA. The total payment amount of \$276,000 was offset by the carrying amount of the liability related to the Illinois RSA in the amount of \$200,000 and an accrued expense in the amount of \$21,445 to reflect the extinguishment of debt in the amount of \$54,555 for the twelve months ended November 30, 2012.

In June and July 2012, the Company entered into Asset Purchase Agreements with certain investors with an interest in 45% of the Illinois RSA and an interest in a RSA with specimens that originate in the state of New York. Pursuant to the terms of the Asset Purchase Agreements, during the third quarter of fiscal 2012, the Company made total payments in the amount of \$672,000 to the investors, and the investors sold, assigned, conveyed, transferred, and delivered to the Company all of its rights, interest and title in their interests in the RSA s. The total payment amount of \$672,000 was offset by the carrying amount of the liability related to the RSA s in the amount of \$350,000 and an accrued expense in the amount of \$8,339 to reflect the extinguishment of debt in the amount of \$313,661 for the twelve months ended November 30, 2012.

**NOTE 13 - AGREEMENTS.**

On December 15, 2009, the Company made a payment of \$100,000 to the Museum of Science and Industry ( MOSI ) for the sponsorship of a stem cell exhibit in The Amazing You exhibition in Tampa, Florida. The payment was made for the exhibit to be displayed over the next five years as well as various other benefits to be received from MOSI. The exhibit opened during the second quarter of 2010. The payment of \$100,000 is being expensed over the life of the exhibit, which is five years. As of November 30, 2012 and November 30, 2011, approximately \$20,000 and \$20,000, respectively, has been expensed and is reflected in the consolidated statements of operations. The remaining balance of approximately \$47,000 and \$67,000 as of November 30, 2012 and November 30, 2011, respectively, is recorded as a deposit on the accompanying consolidated balance sheets.

**NOTE 14 - LEGAL PROCEEDINGS.**

On December 16, 2010, the Company filed an action in the Circuit Court in Pinellas County, Florida against Cord Blood America, Inc. ( CBAI ) seeking an injunction against consummation of the proposed acquisition by CBAI of the assets of Cryo-Cell de Mexico, S.A. de C.V. ( CCMEX ), the Company s exclusive licensee in Mexico. The action is docketed at Civil No. 10-17412-CI-20. The Company believes that the proposed acquisition would violate its License Agreement with CCMEX. CBAI announced on December 8, 2010 that it had entered into a letter of intent for the proposed acquisition with CCMEX on December 3, 2010.

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The Company also filed a motion for a temporary injunction. CBAI filed a motion to dismiss on the ground that CCMEX was an indispensable party to the action. After a hearing on January 14, 2011, the court granted the motion to dismiss, allowing the Company to join CCMEX to the action, and setting a hearing on February 25, 2011 on the Company's motion for an injunction. On January 20, 2011, the Company filed an amended complaint alleging tortious interference with a business relationship by CBAI, misappropriation of trade secrets and confidential information in violation of the Florida Uniform Trade Secrets Act by CBAI, dilution of trademark in violation of Florida Statute Section 495.151 by CBAI, common law unfair competition against CBAI, breach of license agreement by CCMEX and unfair and deceptive trade practices in violation of the Florida Unfair and Deceptive Trade Practices Act by CCMEX and CBAI. The amended complaint sought damages against CBAI and CCMEX and injunctive relief. After CCMEX was joined to the action, both defendants filed motions to dismiss, and the injunction hearing has been continued. On March 18, 2011, the court granted the motions to dismiss filed by CBAI and CCMEX. The court granted the motion for a rehearing filed by the Company. On September 7, 2011, the court granted the motions to dismiss filed by CBAI and CCMEX. The Company did not file an appeal.

On May 26, 2011, a complaint for monetary damages was served against the Company. The complaint did not specify the amount claimed, other than stating that it is more than \$75,000 which is the jurisdictional amount of the court the complaint was filed in. At this time, it is not possible for the Company to estimate the loss or the range of possible loss, due to the current early stage of the litigation, the meaningful legal uncertainties associated with the claim and the fact that the complaint did not specify the amount of damages sought. No amounts have been accrued as of November 30, 2012 and November 30, 2011. The Company believes it has meritorious defenses to the claims included in this complaint and intends to vigorously defend itself; however, the ultimate resolution of this complaint is uncertain at this time. A trial has been scheduled for September 3, 2013.

On October 25, 2011, Mercedes Walton, the Company's former chief executive officer, filed a demand for arbitration with the American Arbitration Association. Ms. Walton is claiming breach of her employment agreement and defamation. Ms. Walton is seeking arbitration costs, attorneys' fees, interest, compensatory, punitive and liquidated damages, as well as injunctive and declaratory relief in the amount of \$5,000,000 of which potentially \$1,000,000 would be covered by the Company's insurance policy. On August 30, 2011, the Board of Directors of the Company terminated its Chief Executive Officer and former Chairman of the Board of Directors, Ms. Walton, for cause. In accordance with Ms. Walton's employment agreement dated August 15, 2005, as amended July 16, 2007, Ms. Walton could be entitled to severance in the amount up to \$950,000 related to lost salary, bonuses and benefits. In addition, the Company could be required to pay all reasonable legal fees and expenses incurred by Ms. Walton as a result of the termination, as well as outplacement services. The Company has recorded an accrual of approximately \$950,000 as of November 30, 2012 and November 30, 2011, associated with the agreement. On August 24, 2011, the Board of Directors of the Company approved funding a Grantor trust to escrow the amounts that may become payable to Mercedes Walton under her respective Employment Agreement as a result of a Change in Control (as that term is defined in the respective employment agreements as a majority change in the Company's Board of Directors). The Company believes that Ms. Walton was terminated for cause and therefore, the Company believes that Ms. Walton has not earned the right to this severance and intends to defend itself against the agreement. A hearing took place during the week of February 4, 2013. The hearing is scheduled to reconvene on March 19, 2013.

In addition, from time to time the Company is subject to proceedings, lawsuits, contract disputes and other claims in the normal course of its business. The Company believes that the ultimate resolution of current matters should not have a material adverse effect on the Company's business, consolidated financial position or results of operations. It is possible, however, that there could be an unfavorable ultimate outcome for or resolution which could be material to the Company's results of operations for a particular quarterly reporting period. Litigation is inherently uncertain and there can be no assurance that the Company will prevail. The Company does not include an estimate of legal fees and other related defense costs in its estimate of loss contingencies.

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### **NOTE 15 - SHARE REPURCHASE PLAN**

In December 2011, the Company's Board of Directors authorized management at its discretion to repurchase up to one million (1,000,000) shares of the Company's outstanding common stock. On June 6, 2012, the Board of Directors of the Company increased the number of shares of the Company's outstanding common stock that management is authorized to repurchase to up to three million (3,000,000). The repurchases must be effectuated through open market purchases, privately negotiated block trades, unsolicited negotiated transactions, and/or pursuant to any trading plan that may be adopted in accordance with Rule 10b5-1 of the Securities and Exchange Commission or in such other manner as will comply with the provisions of the Securities Exchange Act of 1934.

As of November 30, 2012, the Company had repurchased 792,374 shares of the Company's common stock at an average price of \$2.15 per share through open market and privately negotiated transactions.

The repurchased shares will be held as treasury stock and have been removed from common shares outstanding as of November 30, 2012. As of November 30, 2012 and November 30, 2011, 942,474 and 150,100 shares, respectively, were held as treasury stock, which include 150,100 and 150,100 shares, respectively, which is the Company's portion of the value of the Company stock held by Saneron.

Subsequent to the balance sheet date, the Company repurchased an additional 84,596 shares of the Company's common stock at an average price of \$2.46 per share through open market and privately negotiated transactions.

### **NOTE 16 - PROXY CONTEST**

In August 2007, Mr. David Portnoy (the plaintiff) brought an action against the Company and its directors in Delaware Chancery Court in New Castle County. The plaintiff alleged breaches of fiduciary duties in connection with the Company's 2007 Annual Meeting and requested declaratory and injunctive relief relating to the election of directors at that meeting. On January 22, 2008, the Court issued an order under which the Company was required to hold a special meeting of stockholders for the election of directors on March 4, 2008; and the order provided that directors who sat on the Company's Board of Directors prior to the 2007 Annual Meeting would continue in office until the special meeting. The order provided that the members of the management slate pay their own proxy solicitation costs in connection with the special meeting; any costs to the Company of holding the special meeting; and the costs of a special master to preside over the special meeting. On March 4, 2008, the Company held a Special Meeting of Stockholders, at which the directors nominated in management's proxy statement dated February 11, 2008 were elected by the Company's stockholders.

On May 9, 2011, the Company was notified that Mr. David Portnoy nominated five directors to the Company's board of directors to compete with the Company's board of directors at the 2011 Annual Meeting. Mr. Portnoy conducted his own solicitation of the Company's stockholders in favor of his nominees. In light of the activities associated with the 2007 annual meeting, on June 6, 2011, Mr. Portnoy brought another action seeking declaratory relief in the Delaware Chancery Court before the same judge that had ruled on the 2007 action.

On August 24, 2011, the Board of Directors of the Company approved funding a Grantor trust to escrow the amounts that may become payable to certain members of senior management (the Participants) under their respective Employment Agreements as a result of a Change in Control (as that term is defined in the respective employment agreements as a majority change in the Company's Board of Directors). The trustee of the Grantor Trust Agreement is Wells Fargo Bank, National Association (Trustee). On August 25, 2011, the Company transferred \$2,500,000 to the Trust which is reflected as restricted cash in the accompanying consolidated balance sheets as of November 30, 2012 and November 30, 2011. The Trust became irrevocable upon the Change in Control on August 25, 2011. The Company has no power to direct the Trustee to return the funds to the Company. The funds will be returned to the Company when the Trustee is satisfied that the obligations have been satisfied per any agreed upon terms. If the Company becomes insolvent, the Trustee will cease payments of benefits to the Participants and the cash will revert to the Company. Upon written approval of all Participants, the Company may terminate the Trust. During the twelve months ended November 30, 2012, \$81,253 in legal fees were paid from the Trust on behalf of one of the Participants. As of November 30, 2012 the balance in the Trust is \$2,372,439 which is reflected in the accompanying consolidated balance sheets as of November 30, 2012. As of November 30, 2012, one of the three Participants continues to be employed by the Company.

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On August 24, 2011, the Board of Directors of the Company approved the acceleration of any unvested stock options and the extension of the exercise period of such options for options held by the Board of Directors and the Participants in the event of a Change in Control. On November 23, 2011, the Board of Directors of the Company revoked the previous resolution.

The Company held its 2011 Annual Meeting of Stockholders on August 25, 2011 ( the Annual Meeting ). The final voting results were certified by the Inspector of Elections on August 30, 2011. Mr. Portnoy's nominees were elected to the Company's Board of Directors triggering a complete change in the Company's Board of Directors.

On August 30, 2011, the newly elected Board of Directors of the Company terminated its Chief Executive Officer and former Chairman of the Board of Directors, Mercedes Walton, for cause. In accordance with Ms. Walton's employment agreement dated August 15, 2005, as amended July 16, 2007, Ms. Walton could be entitled to severance in the amount up to \$950,000 related to lost salary, bonuses and benefits. In addition, the Company could be required to pay all reasonable legal fees and expenses incurred by Ms. Walton as a result of the termination, as well as outplacement services. The Company has recorded an accrual of approximately \$950,000 associated with the agreement which is reflected as an accrued expense in the accompanying consolidated balance sheets as of November 30, 2012 and November 30, 2011. The Company believes that Ms. Walton was terminated for cause and therefore, the Company believes that Ms. Walton has not earned the right to this severance and intends to defend itself against the agreement.

On August 31, 2011 the Company's Board of Directors approved the reimbursement by the Company to the Portnoy Group of its costs associated with the litigation resulting from the 2007 Annual Meeting and the 2011 Annual Meeting's proxy contest. The total costs reimbursed during the fourth quarter of fiscal 2011 were approximately \$528,000.

On May 30, 2012, the Company received a Nomination Solicitation Notice nominating six individuals to the Company's board of directors to compete with the Company's board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, upon receipt by the Company of this Nomination Solicitation Notice, as defined in the Company's Bylaws, all of the service-based vesting condition options that were issued to the Co-CEOs vested. Due to the immediate vesting of the options issued to the Co-CEOs, approximately \$700,000 was recorded as stock option compensation expense during the second quarter of fiscal 2012 and is reflected in selling, general and administrative expenses in the accompanying consolidated statements of operations for the fiscal year ended November 30, 2012.

### **NOTE 17 - RELATED PARTY TRANSACTIONS**

David Portnoy, the Company's Chairman and Co-Chief Executive officer, is the brother of the Company's Co-Chief Executive Officer Mark Portnoy. The Company's Audit Committee Chairman, Harold Berger, provides accounting services to the Company's Co-Chief Executive Officer Mark Portnoy.

During the year ended November 30, 2011, the Company reimbursed Focus Financial Group \$349,506 related to the reimbursement of the Portnoy Group of its costs associated with the litigation resulting from the 2007 Annual Meeting and the 2011 Annual Meeting's proxy contest. David Portnoy is the chairman of Focus Financial, an investment banking firm.

During the year ended November 30, 2011, the Company engaged PartnerCommunity, Inc. for IT consulting services. The Company paid PartnerCommunity, Inc. \$6,759 which is reflected in selling, general and administrative expenses in the accompanying statement of operations for the twelve months

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ended November 30, 2011. David Portnoy is the chairman of the board and secretary of PartnerCommunity, Inc., a Florida corporation that provides software and hardware integration solutions to telecommunication companies, including AT&T and Verizon.

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

None.

**ITEM 9A. CONTROLS AND PROCEDURES.**

**Evaluation of Disclosure Controls and Procedures**

Based on their most recent review, as of the end of the period covered by this report, the Company's principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures are effective, and that information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934, as amended, is accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure and are effective to ensure that such information is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

**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 Rule 13a-15(f). Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of November 30, 2012. As we previously reported in our Annual Report on Form 10-K for the fiscal year ended November 30, 2011 and subsequent quarterly reports ending with our August 31, 2012 Quarterly Report on Form 10-Q, we identified a material weakness in our internal controls over financial reporting as of the end of the fiscal year ended November 30, 2011 relating to the Company's identification and application of the appropriate accounting treatment for non-routine transactions and related documentation thereof. A material weakness is a control deficiency, or combination of control deficiencies, such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. We have remediated this material weakness as of November 30, 2012. Based on our evaluation under the criteria set forth in *Internal Control - Integrated Framework*, our management concluded that our internal control over financial reporting was effective as of November 30, 2012.

This Annual Report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. We were not required to have, nor have we engaged our independent registered public accounting firm to perform, an audit on our internal control over financial reporting pursuant to the rules of the Securities and Exchange Commission that permit us to provide only management's report in this Annual Report.

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### **Changes in Internal Control Over Financial Reporting**

There were no changes in the Company's internal control over financial reporting during the most recent fiscal quarter ended November 30, 2012 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting except for changes related to the above described material weakness which has been remediated.

### **Limitations on the Effectiveness of Controls**

Our management, including our Co-CEOs and CFO, does not expect that our disclosure controls and internal controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management or board override of the control.

The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, control may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

### **CEO and CFO Certifications**

Appearing as exhibits 31.1 and 31.2 to this report there are Certifications of the Co-CEOs and the CFO. The Certifications are required in accordance with Section 302 of the Sarbanes-Oxley Act of 2002 (the Section 302 Certifications). This Item of this report is the information concerning the evaluation referred to in the Section 302 Certifications and this information should be read in conjunction with the Section 302 Certifications for a more complete understanding of the topics presented.

### **ITEM 9B. OTHER INFORMATION.**

Not applicable.

## **Part III**

### **ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE.**

Below are the names, ages and background of the Board of Directors and Executive Officers of the Company, as well as the particular and specific experience, qualifications, attributes, or skills that led the Board to conclude that each director should serve on our Board of Directors in light of the Company's business and structure at the time of this filing. We have provided this discussion in a separate paragraph immediately below the biographical information provided by for each director. Because the discussion of the specific experience, qualifications, attributes or skills of a director or nominee for director is to be made in light of the Company's business and structure at the time of the particular filing, the content of this discussion may change for one or more directors or nominees in future filings. The Board of Directors have determined that other than Messrs. Portnoy and Portnoy, who are officers of the Company, each of our directors are deemed to be independent under the Nasdaq standards.

David I. Portnoy, age 50, Chairman and Co-Chief Executive Officer. Mr. Portnoy has served as Chairman of the Board and Co-Chief Executive Officer of the Company since August 2011. Prior to this appointment, since 1988, Mr. Portnoy has served as President of Focus Financial Corp., a private investment banking and venture capital firm. Additionally, since 2002, Mr. Portnoy has served as Chairman of the Board of Directors of Partner-Community, Inc., which provides software and hardware integration solutions to telecommunication companies and which was awarded the Verizon 2010 Supplier Recognition Award for Outstanding Performance. Mr. Portnoy graduated Magna Cum Laude in 1984 from The Wharton School of Finance at the University of Pennsylvania where he earned a Bachelor of Science Degree in Economics with a joint major in finance and accounting. David I. Portnoy is the brother of Mark L. Portnoy, a director and Co-Chief Executive Officer of the Company.



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We believe that Mr. Portnoy's knowledge of the Company having served as its Co-Chief Executive Officer assists the Board with its oversight of the strategic plan of the Company. Additionally, we believe that Mr. Portnoy's financial and business experiences provide the Board with general business acumen.

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Mark Portnoy, age 49, Co-Chief Executive Officer. Mr. Portnoy has served as a director and Co-Chief Executive Officer since August 2011. Additionally, since 2002 and 2007, Mr. Portnoy has served on the boards of directors of Partner-Community, Inc. and uTIPu Inc., a private Internet-based business, respectively. Mr. Portnoy has been engaged in managing his personal investments since April 1997. From January 1995 to April 1997, Mark Portnoy was employed at Strome, Susskind Investments as its Chief Fixed Income Trader. From March 1986 until November 1991, Mr. Portnoy was employed at Donaldson, Lufkin & Jenrette Securities Corp. as a Fixed Income Arbitrage Trader, with a trading portfolio ranging in size from \$1 billion to \$7 billion. In addition to the finance experience, Mr. Portnoy's experience includes negotiating contracts for National Basketball Association (NBA) players totaling approximately \$30 million. Mr. Portnoy graduated Phi Beta Kappa from the University of North Carolina at Chapel Hill with a degree in Economics in December 1985. Mark L. Portnoy is the brother of David I. Portnoy, Chairman of the Board and Co-Chief Executive Officer of the Company. We believe that Mr. Portnoy's knowledge of the Company having served as its Co-Chief Executive Officer assists the Board with its oversight of the strategic plan of the Company. Additionally, we believe that Mr. Portnoy's financial and business experiences provide the Board with general business acumen.

Jonathan H. Wheeler M.D., age 53. Dr. Wheeler has served as a director since August 2011. Dr. Wheeler is a licensed physician specializing in the fields of obstetrics and gynecology. He has practiced in these fields in Newport Beach, California since 1992. Dr. Wheeler received his B.A. in Biology from the State University of New York (SUNY) at Buffalo. He completed his medical degree at Cornell University Medical College in 1986. His Obstetrics and Gynecology training was received at UCLA Medical Center in a combined internship and residency program. There, he received honorary awards for his work in advanced laparoscopy and completed research in innovative surgical techniques. Dr. Wheeler is Board certified in Obstetrics and Gynecology. He is a member of the American College of Obstetrics and Gynecology, the American Association of Gynecologic Laparoscopists, the Orange County Obstetrics and Gynecology Society and is a Diplomat of the American Board of Obstetrics and Gynecology. In the past Dr. Wheeler has served as Chairman and Vice-Chairman of the Department of Obstetrics and Gynecology at Hoag Hospital and has served on numerous committees including education, surgery and advancement of Women's Health Services. We believe that Dr. Wheeler's professional experience provides the Board with critical insight into the medical fields of obstetrics and gynecology. Additionally, we believe that through his attendance at medical conferences and seminars, as well as through his daily medical practice, Dr. Wheeler provides the Company with additional business development opportunities through his extensive industry contacts.

George Gaines, age 59. Mr. Gaines has served as a director since August 2011. Mr. Gaines is the founder and owner, since 2009, of Orrington Advisors, a business consulting firm headquartered in Evanston, Illinois which primarily provides consulting services to entities seeking to structure and raise capital for private equity funds. Since 2009 Mr. Gaines has also served on the Board of Directors and as Executive Vice President-Corporate Strategy of Kastan Mining PLC, a privately held company headquartered in Evanston, Illinois which has copper and blue mining operations in Tanzania. From 2003 until 2009, Mr. Gaines was a senior partner of Berchwood Partners, Evanston, Illinois, an investment banking and private equity fund placement agent. We believe that Mr. Gaines' business consulting experience provides the Board with general business acumen and an increased ability to effectively oversee and assess management's execution of the Company's strategic business plan.

Harold D. Berger, age 49. Mr. Berger has served as a director since August 2011. Mr. Berger is a certified public accountant. Prior to opening his own accounting practice in 2005, Mr. Berger was an equity partner with Habif, Arogeti & Wynne, LLP, an accounting firm based in Atlanta, Georgia. Over the past 25 years, Mr. Berger also has served on boards for a variety of charitable organizations. Mr. Berger currently serves as Treasurer and Executive Committee Member of the Holly Lane Foundation (f/k/a The Gatchell Home, Inc.), as Director and Finance committee member of the Jewish Educational Loan Fund, Inc., and as Director and financial adviser to The Atlanta Group Home Foundation, Inc. Mr. Berger graduated in December 1987 from the University of Texas at Austin with a Master's Degree in Professional Accounting. Mr. Berger is a member of the American Institute of Certified Public Accountants (AICPA) and the Georgia Society of Certified Public Accountants (GSCPA). We believe that Mr. Berger's years of experience as an auditor and accountant, including expertise in financial accounting, provides the Board and the Audit Committee of the Board with valuable financial and accounting experience.

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Anthony Atala, M.D., 54. Dr. Atala has served as a director since August 2011. Dr. Atala serves as Director of the Wake Forest Institute for Regenerative Medicine, and the W.H. Boyce Professor and Chair of the Department of Urology at Wake Forest University. Dr. Atala is a practicing surgeon and a globally recognized stem cell researcher in the area of regenerative medicine. His current work focuses on growing new human cells, tissues and organs. Dr. Atala works with several journals and serves in various roles, including Editor-in-Chief of Stem Cells Translational Medicine, Current Stem Cell Research and Therapy, and Therapeutic Advances in Urology; as Associate Editor of Tissue Engineering and Regenerative Medicine, The Journal of Rejuvenation Research, Gene Therapy and Regulation; as Executive Board Member or Section Editor of the journal Tissue Engineering and International Journal of Artificial Organs, and as Editorial Board member of the International Journal of Stem Cells, Expert Opinion on Biological Therapy, Biomedical Materials, the Journal of the American College of Surgeons, the Journal of Urology, BioMed Central-Urology, and Urology. Dr. Atala currently serves as a Trustee to Allegacy Federal Credit Union, and a Board of Directors member of Plureon, Inc. Dr. Atala served as a Board of Director member of Tengion Corporation from 2004 to 2006. Dr. Atala received a BA degree from the University of Miami, and an MD degree from the University of Louisville. He completed his surgical internship and urology residency at the University of Louisville, and a pediatric urology surgery fellowship at Boston Children's Hospital and Harvard Medical School. Dr. Atala has led or served several national professional and government committees, including the National Institutes of Health working group on Cells and Developmental Biology, and the National Institutes of Health Bioengineering Consortium. He is currently an NIH Quantum Grant awardee. The Wake Forest Institute of Regenerative Medicine has a team of over 250 physicians and researchers. Ten applications of technologies developed in Dr. Atala's laboratory have been used clinically. He is the editor of 12 books, including Methods of Tissue Engineering, Principles of Regenerative Medicine, and Minimally Invasive Urology, and has published more than 400 journal articles and has applied for or received over 200 national and international patents. We believe that Dr. Atala's professional experience in the field of Regenerative Medicine provides the Board with critical industry knowledge relating to the Company's core offerings and provides assistance to the Board with respect to scientific questions which may arise and relate to the operation of the Company. We believe that Dr. Atala's professional experience in the field of Regenerative Medicine provides the Board with critical industry knowledge relating to the Company's core offerings and provides assistance to the Board with respect to scientific questions which may arise and relate to the operation of the Company.

**Other Executive Officers**

Biographical information regarding the Company's executive officers who are not currently serving as directors of the Company is set forth below:

Jill Taymans, 43, Vice President, Finance and Chief Financial Officer. Ms. Taymans joined the Company in April 1997 serving initially as Controller and was appointed Chief Financial Officer in May 1998. Ms. Taymans graduated from the University of Maryland in 1991 with a BS in Accounting. She has worked in the accounting industry for over 20 years in both the public and private sectors. Prior to joining the Company, she served for three years as Controller for a telecommunications company.

Oleg Mikulinsky, age 40, Chief Information Officer. Mr. Mikulinsky has served as Cryo-Cell's Chief Information Officer since March 2012. Mr. Mikulinsky is a software technologist and serial entrepreneur. He has been a founding member of several software enterprises and most recently served as Chief Technology Officer of Partner-Community, Inc and Chief Technology Officer at uTIPu Inc. from 2007 to 2009. Before that, Mr. Mikulinsky served as the Director of Enterprise Architecture at WebLayers, Inc. where he defined enterprise architecture best practices for companies like AT&T, Defense Information's Systems Agency (DISA), as well as for many major banking institutions. He contributed to the development of International systems interoperability standards at OASIS-OPEN.ORG and WS-I.ORG.

Linda Kelley, Ph.D., age 60, Chief Scientific Officer. Dr. Kelley joined Cryo-Cell as the Company's Chief Scientific Officer in June 2012. Dr. Kelley is an internationally recognized expert in the cellular therapy field. She joined the Company from the Dana-Farber Cancer Institute at Harvard where she was the director of the Connell O'Reilly Cell Manipulation Core Facility from 2011 to 2012. Prior to that, from 1994 to 2011 she served as director of the Cell Therapy Facility at the University of Utah. She established that state's first umbilical cord blood collection program and was awarded a Center of Excellence in Cell Therapy and Regenerative Medicine for the State of Utah, which served as a cornerstone for a larger state initiative in Regenerative Medicine - the Utah Science & Technology Research Initiative. She completed her graduate and post-doctoral training in Immunology and Hematology at Vanderbilt University in Nashville, Tenn., where she served as assistant professor in the Dept. of Medicine. Dr. Kelley has served on multiple boards and committees that advise on scientific policy and establish standards and regulations for the cellular therapy field in the U.S. and abroad, often in leadership roles. She served on the Board of Directors of the Foundation for Accreditation of Cellular Therapy (FACT) and as Chair of its Standards Committee; Chair of the Cord Blood Standards Committee for the National Marrow Donor Program (NMDP); Chair of the Legal and Regulatory Affairs Committee of the International Society for Cell Therapy; reviewer for the AABB Annual Meeting Abstract Review Committee, and member of the Scientific Advisory Board of Duke Carolinas Cord Blood Bank. Dr. Kelley was one of 12 scientists selected by the Institute of Medicine of the National Academies of Science to advise Congress on how to allocate \$80 million in funding to optimally structure a national cord blood stem cell program.

Audit Committee Financial Expert

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The audit committee is comprised entirely of non-employee, independent members of the board of directors. The purpose of the audit committee is to assist the board of directors in fulfilling its oversight responsibilities by reviewing the Company's internal control systems, audit functions, financial reporting processes, methods of monitoring compliance with legal and regulatory matters and engaging the Company's independent principal accountant. The board of directors has determined that each of the audit committee members is able to read and understand fundamental financial statements. In addition, the board of directors has determined that audit committee Chairman, Mr. Harold Berger, is an audit committee financial expert as that term is defined in Item 407(d)(5) of Regulation S-K promulgated under the Securities and Exchange Act of 1934. Mr. Berger's relevant experience includes his current position with his own accounting practice, as well as, his prior position as an equity partner with Habif, Arogeti & Wynne, LLP, an accounting firm based in Atlanta, Georgia.

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires our officers, directors and persons who are the beneficial owners of more than 10% of our common stock to file with the SEC initial reports of ownership and reports of changes in ownership of our common stock. Officers, directors and

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beneficial owners of more than 10% of our common stock are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file. Based solely on a review of the copies of the Forms 3, 4 and 5 and amendments that we received with respect to transactions during fiscal 2012, we believe that all such forms were filed on a timely basis.

## Code of Ethics

The Company has adopted a code of ethics for its chief executive officer and all senior financial officers, including the chief financial officer and principal accounting officer. The code of ethics is available to any shareholder, without charge, upon written request to the Company in care of the Corporate Secretary at 700 Brooker Creek Boulevard, Suite 1800, Oldsmar, Florida 34677.

**ITEM 11. EXECUTIVE COMPENSATION.**

## Summary Compensation Table

The table below summarizes the total compensation paid or earned during the fiscal year ended November 30, 2012 and November 30, 2011 by (i) the Company's Chief Executive Officer and (ii) the two other most highly compensated individuals that served as executive officers of the Company as of November 30, 2012 whose total compensation received from the Company during such fiscal year (other than non-qualified deferred compensation earnings, if any) exceeded \$100,000 (collectively, the named executives).

| Name and Principal Position                     | Year | Salary<br>(\$) | Bonus<br>(\$) | Option Awards<br>(\$) (2) | Non-Equity<br>Incentive<br>Plan<br>Compensation<br>(\$) | All Other<br>Compensation<br>(\$) (3) | Total (\$) |
|---|------|----------------|---------------|---------------------------|---|---------------------------------------|------------|
| David Portnoy                                   | 2012 | \$ 225,000     | \$ 100,000    | \$ 463,950                |   | \$ 19,218                             | \$ 808,168 |
| Co-Chief Executive Officer (1)                  | 2011 | \$ 54,519      | \$ 0          | \$ 79,542                 | \$ 0  | \$ 0                                  | \$ 134,061 |
| Mark Portnoy                                    | 2012 | \$ 200,000     | \$ 88,889     | \$ 463,950                |   |                                       | \$ 752,839 |
| Co-Chief Executive Officer (1)                  | 2011 | \$ 48,462      | \$ 0          | \$ 79,542                 | \$ 0  | \$ 0                                  | \$ 128,004 |
| Jill M. Taymans                                 | 2012 | \$ 177,852     | \$ 5,000      | \$ 10,438                 | \$ 0  | \$ 0                                  | \$ 193,290 |
| Vice President Finance, Chief Financial Officer | 2011 | \$ 177,852     | \$ 0          | \$ 11,605                 | \$ 0  | \$ 0                                  | \$ 189,457 |
| Oleg Mikulinsky                                 | 2012 | \$ 146,269     | \$ 25,000     | \$ 25,476                 | \$  | \$                                    | \$ 196,745 |

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- (1) Messrs. Portnoy and Portnoy became Co-Chief Executive Officers effective August 31, 2011.
  - (2) Represents the dollar amount recognized for financial reporting purposes in fiscal 2012 and 2011. The fair value was estimated using the Black-Scholes option-pricing model. The amount reported has been adjusted to eliminate service-based forfeiture assumptions used for financial reporting purposes. See Note 7, Stockholders' Equity, to our consolidated financial statements for a discussion of our accounting for stock options and the assumptions used.
  - (3) Represents perquisites and other benefits, valued on the basis of aggregate incremental cost to the Company.
  - (4) Julie Allickson resigned from the Company effective April 27, 2012.
- Narrative Disclosure Regarding Summary Compensation Table

Compensation Philosophy

Our executive compensation policies are designed to provide competitive levels of compensation that integrate pay with our annual objectives and long-term goals, align the long-term interests of management with those of our stockholders, reward for achieving performance objectives, recognize individual initiative and achievements, and assist us in attracting and retaining highly qualified and experienced executives. The compensation committee of our board of directors is primarily responsible for acting on our philosophical approach to executive compensation. There are three primary elements in our executive compensation program: base salary compensation, cash bonus and stock options.

Base salary compensation is based on the potential impact the individual may have on the Company, the skills and experience required by the job, comparisons with comparable companies and the performance and potential of the incumbent in the job.

A cash bonus pool along with Company performance targets and individual performance objectives are established at the beginning of each fiscal year by the compensation committee. At the end of the fiscal year each performance target is measured and bonuses are paid at the end of the fiscal year if the set performance targets established at the beginning of the fiscal year are attained. A percentage of the pre-determined cash bonus pool is paid to the named executive officer depending on the performance targets met by the Company and the individual. In fiscal year 2012 the Company's Co-CEOs were entitled to a performance based bonus of an amount up to 35%, 65% or 100% of their base salary. In fiscal 2012, the Company's threshold, target and stretch performance standards required to earn cash bonuses were based on the diluted revenue per share as of November 30, 2012 of \$1.42, \$1.54 and \$1.75 per share, respectively, and the Company's stock price as of November 30, 2012 of \$2.50, \$3.15 and \$3.75, respectively. The third criteria for cash bonuses to the Co-CEOs consist of subjective performance, as determined in the sole discretion of the Compensation Committee of the Board of Directors. Cash bonuses were accrued in fiscal 2012 payable to the Co-CEOs totaling \$188,889. In fiscal 2012 the cash bonuses for the named executives consists of subjective performance, as determined in the sole discretion of the Compensation Committee of the Board of Directors. Cash bonuses were accrued in fiscal 2012 payable to the named executives totaling \$30,000. In fiscal year 2011, 75% of the amount of the potential bonus was based on the Company performance targets and 25% was based on the named executive officer's individual performance objectives associated with corporate strategy. The revenue and earnings target levels disclosed below and the undisclosed number of new umbilical cord blood and menstrual stem cell units and customer satisfaction survey results target levels utilized in fiscal 2011 required significant effort by the Company to achieve extraordinary performance and are very difficult to attain. In fiscal 2011, the Company performance targets required to earn cash bonuses were based on the number of new umbilical cord blood and menstrual stem cell units; \$19.4 million in revenue; \$1.9 million in earnings; and customer satisfaction survey results. No cash bonuses were paid to the named executive officers in fiscal 2011 because the Company did not meet all of the performance targets for fiscal 2011.

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Stock options are granted to our executive officers in order to maintain competitive pay packages and to align management's long-term interests with those of our stockholders. The compensation committee approves stock option grants to our executives and key personnel. Awards vest and options become exercisable based upon criteria established by the compensation committee. There were 200,000 and 200,000 stock options awarded to the named executive officers in 2012 and 2011, respectively.

Overall, the compensation committee attempts to establish levels of executive compensation that it believes to be competitive with those offered by employers of comparable size, growth and profitability in the Company's industry and in general industry. In establishing the levels of the various compensation elements, the compensation committee has from time to time used the services of compensation consultants.

**Employment Agreements and Change in Control Arrangements**

**David Portnoy Employment Agreement.** On December 1, 2011, the Company entered into a two year employment agreement (the "David Portnoy Employment Agreement") with David Portnoy as the Chairman of the Board and Co-Chief Executive Officer effective December 1, 2011 (the "Commencement Date"). The David Portnoy Employment Agreement provides for an annual base salary of \$225,000. In addition to base salary, for the fiscal years ending November 30, 2012 and November 30, 2013, Mr. Portnoy will be entitled to a performance-based bonus of an amount up to 35%, 65% or 100% of base salary, depending on whether the stated performance targets are achieved. On February 13, 2012, the David Portnoy Employment Agreement was amended to clarify that the determination of whether the Threshold, Target, and Stretch performance standards have been achieved with respect to (i) bonuses to be paid under Section 3(b) of the David Portnoy Employment Agreement; and (ii) the grant of the equity awards described in Section 3(c)(ii) of the David Portnoy Employment Agreement, shall be made without regard to any accounting impact of such awards on the Company's financial statements. The amendment to the David Portnoy Employment Agreement also revises Section 3(c)(ii) to correct the Company's fiscal year end date. The David Portnoy Agreement provides a signing bonus in the form of non-qualified stock options. Accordingly, on December 1, 2011, Mr. Portnoy was granted stock options to acquire 200,000 shares of Company stock at \$1.72 per share, which was the closing price of the Company's stock on that day. One-third of the award vested on the day of grant, one-third becomes vested on the first anniversary of the grant date, and one-third becomes vested on the second anniversary of the grant date. If specified performance targets are achieved at the stretch level and Mr. Portnoy is still employed by the Company as of November 30, 2013, Mr. Portnoy will receive a grant of non-qualified stock options of up to 300,000 shares. Such grants shall be made no later than February 28, 2014 and shall have a grant price equal to \$1.72, which is the closing price of the Company's stock on December 1, 2011.

The David Portnoy Employment Agreement also provides for reimbursement for all business expenses, including reasonable commuting expenses for David Portnoy between his home in Miami, Florida to the Company's headquarters in Tampa, Florida, including lodging and rental car expenses for when he is working in the Company's offices in Tampa. Mr. Portnoy's principal place of employment shall be at the Company's headquarters, but he may elect in his discretion to work from his residence in Miami, Florida. The Company shall pay reasonable legal and financial consulting fees and costs incurred in negotiating the agreements and shall pay him up to \$75,000 in legal fees related to any dispute or question of interpretation regarding the agreements. Mr. Portnoy will also participate in the employee benefit plans that the Company generally makes available to Company employees from time to time, including retirement and health plans.

Upon the occurrence of an involuntary termination of employment or a voluntary termination of employment for "Good Reason" (as defined in the agreements), the David Portnoy Employment Agreement provides for severance pay equal to the greater of one times Mr. Portnoy's then-current annual base salary or the then-current base salary for the remaining term of the agreement, paid in a lump sum. However, if such termination of employment is in connection with a change in control (as defined in the agreements) that occurs before December 1, 2012, then the agreements provide for severance pay

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equal to two times Mr. Portnoy's then-current base salary and the Company will reimburse the Executive, on a grossed up basis, for any penalty taxes owed on any excess parachute amounts under Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"). In addition, the Company shall provide, at no cost to Mr. Portnoy, continued life insurance coverage and nontaxable medical, dental and disability insurance coverage substantially similar to the coverage maintained by the Company for Mr. Portnoy prior to such termination for 36 months after the termination. If the termination of employment is due to disability (as defined in the agreements), the agreements provide for the continuation of Mr. Portnoy's base salary for the greater of one year or the remaining term of the agreement. If the termination of employment is due to death, the agreements provide for payment of Mr. Portnoy's base salary for one year after his date of death, and the Company will continue to provide medical and dental coverage for Mr. Portnoy's family for one year after his death. The agreements include a one-year non-competition restriction and a two-year restriction on solicitation of employees or customers.

**Mark Portnoy Employment Agreement.** On December 1, 2011, the Company entered into a two year employment agreement (the "Mark Portnoy Employment Agreement") with Mark Portnoy as the Co-Chief Executive Officer effective December 1, 2011 (the "Commencement Date"). The Mark Portnoy Employment Agreement provides for an annual base salary of \$200,000. In addition to base salary, for the fiscal years ending November 30, 2012 and November 30, 2013, Mr. Portnoy will be entitled to a performance-based bonus of an amount up to 35%, 65% or 100% of base salary, depending on whether the stated performance targets are achieved. On February 13, 2012, the Mark Portnoy Employment Agreement was amended to clarify that the determination of whether the Threshold, Target, and Stretch performance standards have been achieved with respect to (i) bonuses to be paid under Section 3(b) of the Mark Portnoy Employment Agreement; and (ii) the grant of the equity awards described in Section 3 (c)(ii) of the Mark Portnoy Employment Agreement, shall be made without regard to any accounting impact of such awards on the Company's financial statements. The Mark Portnoy Employment Agreement provides a signing bonus in the form of non-qualified stock options. Accordingly, on December 1, 2011, Mr. Portnoy was granted stock options to acquire 200,000 shares of Company stock at \$1.72 per share, which was the closing price of the Company's stock on that day. One-third of the award vested on the day of grant, one-third becomes vested on the first anniversary of the grant date, and one-third becomes vested on the second anniversary of the grant date. If specified performance targets are achieved at the stretch level and Mr. Portnoy is still employed by the Company as of November 30, 2013, Mr. Portnoy will receive a grant of non-qualified stock options of up to 300,000 shares. Such grants shall be made no later than February 28, 2014 and shall have a grant price equal to \$1.72, which is the closing price of the Company's stock on December 1, 2011.

The Mark Portnoy Employment Agreement also provides for reimbursement for all business expenses, including moving expenses incurred for Mr. Portnoy to relocate his primary residence to Tampa, Florida. The Company shall pay reasonable legal and financial consulting fees and costs incurred in negotiating the agreements and shall pay him up to \$75,000 in legal fees related to any dispute or question of interpretation regarding the agreements. Mr. Portnoy will also participate in the employee benefit plans that the Company generally makes available to Company employees from time to time, including retirement and health plans.

Upon the occurrence of an involuntary termination of employment or a voluntary termination of employment for "Good Reason" (as defined in the agreements), the Mark Portnoy Employment Agreement provides for severance pay equal to the greater of one times Mr. Portnoy's then-current annual base salary or the then-current base salary for the remaining term of the agreement, paid in a lump sum. However, if such termination of employment is in connection with a change in control (as defined in the agreements) that occurs before December 1, 2012, then the agreements provide for severance pay equal to two times Mr. Portnoy's then-current base salary and the Company will reimburse the Executive, on a grossed up basis, for any penalty taxes owed on any excess parachute amounts under Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"). In addition, the Company shall provide, at no cost to Mr. Portnoy, continued life insurance coverage and nontaxable medical, dental and disability insurance coverage substantially similar to the coverage maintained by the Company for Mr. Portnoy prior to such termination for 36 months after the termination. If the termination of employment is due to



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disability (as defined in the agreements), the agreements provide for the continuation of Mr. Portnoy's base salary for the greater of one year or the remaining term of the agreement. If the termination of employment is due to death, the agreements provide for payment of Mr. Portnoy's base salary for one year after his date of death, and the Company will continue to provide medical and dental coverage for Mr. Portnoy's family for one year after his death. The agreements include a one-year non-competition restriction and a two-year restriction on solicitation of employees or customers.

**Taymans Employment Agreement.** On November 1, 2005, the Company entered into a one-year employment agreement with Jill M. Taymans, the Company's Chief Financial Officer and Vice President (the "Taymans Employment Agreement"). Under the Taymans Employment Agreement, the one-year term is automatically extended for additional one-year periods unless, at least 60 days prior to the end of the then-current term, either party notifies the other in writing of its intent not to renew the agreement. The Taymans Employment Agreement was amended in July 2008 to provide that the then-current term would expire on November 30, 2008. The ending date of the current term of the Taymans Employment Agreement is November 30, 2013.

At all times during the term of the Taymans Employment Agreement (as the same may be extended), Ms. Taymans will be eligible for discretionary merit increases and adjustments in base salary, in addition to discretionary annual bonuses awarded at the discretion of the compensation committee of the Company's board of directors. The Taymans Employment Agreement provides that she will be eligible to receive long-term incentive awards provided to the Company's senior executives generally, on terms finally determined by the compensation committee of the Company's board of directors.

In the event of a termination of employment of Ms. Taymans upon or within one year of a Change in Control (as defined in the Taymans Employment Agreement), or prior to the Change in Control if the termination was related to the Change in Control, if the termination was by the Company without cause or was by Ms. Taymans due to being requested to accept without cause a demotion or relocation, Ms. Taymans will be entitled to receive the following: (i) all earned compensation through the date of termination (or, if greater, on the date immediately preceding a Change in Control); and (ii) 12 months of base salary as in effect on the termination date (or, if greater, base salary in effect immediately prior to the Change in Control).

Under the Taymans Employment Agreement, the Company will also provide Ms. Taymans with certain other benefits, including continued participation in all applicable Company benefit plans and payment of reasonable business expenses.

In the Taymans Employment Agreement, Ms. Taymans agreed not to compete with the Company or solicit its customers, clients or employees during the term of her Employment Agreement and for a 12-month period following her termination of employment under the agreement.

**Mikulinsky Employment Agreement.** On March 5, 2012, the Company entered into a one-year employment agreement (the "Mikulinsky Employment Agreement") with Oleg Mikulinsky, as the Company's Chief Information Officer. The one-year term of the Employment Agreement will be automatically extended for additional one-year periods unless, at least 30 days prior to the end of the then-current term, either party notifies the other in writing of its intent not to renew the agreement.

At all times during the term of his employment agreement (as the same may be extended), Mr. Mikulinsky will be eligible for discretionary merit increases and base salary adjustments, in addition to discretionary annual bonuses awarded at the discretion of the compensation committee of the Company's board of directors. The Mikulinsky Employment Agreement provides he will also be eligible for long-term incentive awards provided to the Company's senior executives generally, on terms finally determined by the compensation committee of the Company's board of directors.

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In addition to base salary, the Mikulinsky Employment Agreement provided a signing bonus in the form of non-qualified stock options. Accordingly, on March 5, 2012, Mr. Mikulinsky was granted stock options to acquire 40,000 shares of Company common stock at \$2.05 per share, which was the closing price of the Company's stock on that day. One-third of the award vested on the day of grant, one-third becomes vested on the first anniversary of the grant date, and one-third becomes vested on the second anniversary of the grant date. If specified performance targets are achieved at the stretch level, and if Mr. Mikulinsky is still employed by the Company as of March 4, 2014, then Mr. Mikulinsky will receive a grant of non-qualified stock options of up to 40,000 shares. Such grants shall have a grant price equal to \$2.05, which is the closing price of the Company's stock on March 5, 2012.

In the event of a termination of employment of Mr. Mikulinsky upon or within one-year of a Change in Control (as defined in the Mikulinsky Employment Agreement), or prior to the Change in Control if the termination was related to the Change in Control, if the termination was by the Company without cause or was by executive due to being requested to accept without cause a demotion or relocation, Mr. Mikulinsky will be entitled to receive the following: (i) all earned compensation through the date of termination (or, if greater, on the date immediately preceding a Change in Control); and (ii) 12 months of base salary as in effect on the termination date (or, if greater, base salary in effect immediately prior to the Change in Control).

Under the Mikulinsky Employment Agreement, the Company will also provide Mr. Mikulinsky with certain other benefits, including continued participation in all applicable Company benefit plans and payment of reasonable business expenses.

In the Mikulinsky Employment Agreement, Mr. Mikulinsky agreed not to compete with the Company or solicit its customers, clients or employees during the term of his respective Employment Agreement and for a 12-month period following the termination of employment under agreements.

**Kelley Employment Agreement.** On June 18, 2012, the Company entered into a one-year employment agreement with Linda Kelley, PhD, the Company's Chief Scientific Officer (the Kelley Employment Agreement). Under the Kelley Employment Agreement, the one-year term is automatically extended for additional one-year periods unless, at least 60 days prior to the end of the then-current term, either party notifies the other in writing of its intent not to renew the agreement.

At all times during the term of the Kelley Employment Agreement (as the same may be extended), Dr. Kelley will be eligible for discretionary merit increases and adjustments in base salary, in addition to discretionary annual bonuses awarded at the discretion of the compensation committee of the Company's board of directors. The Kelley Employment Agreement provides that she will be eligible to receive long-term incentive awards provided to the Company's senior executives generally, on terms finally determined by the compensation committee of the Company's board of directors.

In addition to base salary, the Kelley Employment Agreement provided a signing bonus in the form of non-qualified stock options. Accordingly, on June 18, 2012, Dr. Kelley was granted stock options to acquire 20,000 shares of Company common stock at \$2.36 per share, which was the closing price of the Company's stock on that day. One-third of the award becomes vested one-year from the day of grant, one-third becomes vested on the second anniversary of the grant date, and one-third becomes vested on the third anniversary of the grant date.

In the event of a termination of employment of Dr. Kelley upon or within one year of a Change in Control (as defined in the Kelley Employment Agreement), or prior to the Change in Control if the termination was related to the Change in Control, if the termination was by the Company without cause or was by Dr. Kelley due to being requested to accept without cause a demotion or relocation, Dr. Kelley will be entitled to receive the following: (i) all earned compensation through the date of termination (or, if greater, on the date immediately preceding a Change in Control); and (ii) 12 months of base salary as in effect on the termination date (or, if greater, base salary in effect immediately prior to the Change in Control).

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Under the Kelley Employment Agreement, the Company will also provide Dr. Kelley with certain other benefits, including continued participation in all applicable Company benefit plans and payment of reasonable business expenses.

In the Kelley Employment Agreement, Dr. Kelley agreed not to compete with the Company or solicit its customers, clients or employees during the term of her Employment Agreement and for a 12-month period following her termination of employment under the agreement.

**Outstanding Equity Awards at Fiscal Year-End**

The following table sets forth information concerning stock options held by the named executive officers at November 30, 2012:

| Name            | Grant Date          | Option Awards   |   |                            | Option Expiration Date |
|-----------------|---------------------|---|---|----------------------------|------------------------|
|                 |                     | Number of Securities Underlying Unexercised Options (#) Exercisable | Number of Securities Underlying Unexercised Options (#) Unexercisable | Option Exercise Price (\$) |                        |
| David Portnoy   | August 31, 2011(1)  | 100,000   |   | \$ 2.90                    | August 31, 2021        |
|                 | December 1, 2011(1) | 200,000   |   | \$ 1.72                    | December 1, 2021       |
| Mark Portnoy    | August 31, 2011(1)  | 100,000   |   | \$ 2.90                    | August 31, 2021        |
|                 | December 1, 2011(1) | 200,000   |   | \$ 1.72                    | December 1, 2021       |
| Jill Taymans    | April 4, 2006(2)    | 29,548  |   | \$ 3.34                    | April 4, 2013          |
|                 | August 3, 2009(2)   | 18,563  |   | \$ 1.73                    | August 3, 2016         |
|                 | February 1, 2010(2) | 9,281   |   | \$ 1.50                    | February 1, 2017       |
| Oleg Mikulinsky | March 5, 2012(3)    | 13,334  | 26,666  | \$ 2.05                    | March 5, 2019          |

- (1) On May 30, 2012, the Company received a Nomination of Solicitation Notice from a shareholder nominating six individuals for election as directors to compete with the Company's board of directors at the 2012 Annual Meeting. Pursuant to the Co-CEOs employment agreements, if the Company receives a Nomination of Solicitation Notice, as defined by the Company's Bylaws, all of the service-based vesting condition options that were issued to the Co-CEOs immediately vest.
- (2) 1/3 of the options vest one-year from the date of grant, 1/3 of the options vest two-years from the date of grant and 1/3 of the options vest three-years from the date of grant.
- (3) 1/3 of the options vest immediately on the date of grant, 1/3 of the options vest one-year from the date of grant and 1/3 of the options vest two-years from the date of grant.

**Director Compensation**

Directors who are employees of the Company receive no compensation for their services as directors or as members of committees. Non-employee directors are paid an annual retainer in the amount of \$12,000 and an attendance fee of \$3,000 for each board meeting and \$1,000 for each committee meeting, and are reimbursed for their reasonable expenses incurred in attending the meeting. The fee for participation in a board or committee meeting held by telephone conference call and lasting at least one hour is \$1,000. Each non-employee director receives an annual stock option grant in the amount of 7,500 shares on the



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date of the annual stockholders meeting in each year. Newly elected non-employee directors receive a stock option grant of 20,000 shares per person. All of such stock options have an exercise equal to the fair market value of the common stock on the date of grant.

The table below summarizes the compensation paid by the Company to its non-employee directors for the fiscal year ended November 30, 2012:

| Name             | Fees Earned |           |           |
|------------------|-------------|-----------|-----------|
|                  | Paid in     | Option    | Total     |
|                  | Cash        | Awards    | Total     |
|                  | (\$)        | (\$)(1)   | (\$)      |
| Harold Berger    | \$ 15,000   | \$ 17,134 | \$ 32,134 |
| George Gaines    | \$ 15,000   | \$ 17,134 | \$ 32,134 |
| Jonathan Wheeler | \$ 15,000   | \$ 17,134 | \$ 32,134 |
| Anthony Atala    | \$ 9,000    | \$ 17,134 | \$ 26,134 |

- (1) Represents the dollar amount recognized for financial reporting purposes in fiscal 2012 under SFAS 123R with respect to stock options. The fair value was estimated using the Black-Scholes option-pricing model. The amount reported has been adjusted to eliminate service-based forfeiture assumptions used for financial reporting purposes. See Note 7, Stockholders Equity, to our consolidated financial statements for a discussion of our accounting for stock options and the assumptions used.

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

The following table sets forth certain information regarding beneficial ownership of our common stock as of February 22, 2013 by (i) each person who is known by the Company to own beneficially more than 5% of the outstanding shares of our common stock, (ii) each director and director nominee of the Company, (iii) each executive officer of the Company, and (iv) all current directors and executive officers of the Company as a group. Except as otherwise indicated below, each of the stockholders named in the table has sole voting and investment power with respect to their shares of common stock, except to the extent authority is shared by spouses under applicable law.

| Name and Address of Beneficial Owner (1)                   | Number of Shares       | Percent of |
|--|------------------------|------------|
|  | Beneficially Owned (2) | Class (1)  |
| <b>Current directors, nominees and executive officers:</b> |                        |            |
| David Portnoy (3)  | 984,386                | 8.72%      |
| Mark Portnoy (4)   | 533,144                | 4.72%      |
| George Gaines (5)  | 718,292                | 6.53%      |
| Harold Berger (6)  | 18,422                 | *          |
| Jonathan Wheeler (7)                                       | 47,292                 | *          |
| Jill Taymans (8)   | 74,944                 | *          |

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|   |           |        |
|---|-----------|--------|
| Oleg Mikulinsky (9)   | 26,667    | *      |
| Anthony Atala (10)  | 12,292    | *      |
| <b>Other beneficial owners:</b>   |           |        |
| Ki Yong Choi (11)   | 2,179,086 | 19.84% |
| Mary J. Nyberg and Charles D. Nyberg, as co-trustees of CDMJ Nyberg Family Trust, U/A/D June 9, 2005 (12) | 648,024   | 5.90%  |
| All current directors and executive officers as a group (8 persons) (13)                                  | 2,415,437 | 20.61% |

\* Less than 1%.

- (1) Pursuant to applicable SEC rules, the percentage of voting stock for each stockholder is calculated by dividing (i) the number of shares deemed to be beneficially held by such stockholders as February 22, 2013 by (ii) the sum of (a) 10,994,880 which is the number of shares of common stock outstanding as February 22, 2013 plus (b) the number of shares issuable upon exercise of options (which are shares that are not voting until exercised) held by such stockholder which were exercisable as of February 22, 2013 or will become exercisable within 60 days. Unless otherwise indicated, the address of each person in the table is 700 Brooker Creek Boulevard, Suite 1800, Oldsmar, Florida 34677.
- (2) In accordance with Rule 13d-3 under the Securities Exchange Act of 1934, a person is deemed to be the beneficial owner for purposes of this table, of any shares of Common Stock if he or she has shared voting or investment power with respect to such security, or has a right to acquire beneficial ownership at any time within 60 days from February 22, 2013. As used herein, voting power is the power to vote or direct the voting of shares, and investment power is the power to dispose or direct the disposition of shares. The shares set forth above for directors and executive officers include all shares held directly, as well as by spouses and minor children, in trust and other indirect ownership, over which shares the named individuals effectively exercise sole or shared voting and investment power.
- (3) Includes 4,200 shares of Common Stock held directly through a 401(k) plan account, 199,080 shares of Common Stock held directly through IRA accounts of David Portnoy, 18,100 shares that he owns individually of record, 144,724 shares of Common Stock held by Partner-Community, Inc., as to which David Portnoy may be deemed the beneficial owner as Chairman of the Board and Secretary, 55,219 shares of Common Stock held by uTIPu, as to which David Portnoy may be deemed the beneficial owner as Chairman of the Board, 199,738 shares of Common Stock held by Mayim Investment Limited Partnership, as to which David Portnoy may be deemed the beneficial owner as the managing member and owner of Mayim Management, LLC, which is the general partner of Mayim Management Limited Partnership, which is the general partner of Mayim Investment Limited Partnership; 51,678 shares of Common Stock held by spouse, 4,854 shares held by David Portnoy as custodian for his minor son; and 4,000 Shares held by David Portnoy as custodian for his minor daughter. Includes 300,000 shares subject to stock options.
- (4) Includes 2,455 shares of Common Stock held directly through a 401(k) plan account, 130,029 shares of common stock held by Capital Asset Fund #1 Limited Partnership, as to which Mark Portnoy may be deemed beneficial owner as its general partner. Also, includes 300,000 shares subject to stock options.
- (5) Includes 12,292 shares subject to stock options.

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- (6) Includes 12,292 shares subject to stock options.
- (7) Includes 12,292 shares subject to stock options.
- (8) Includes 57,392 shares subject to stock options.
- (9) Includes 26,667 shares subject to stock options.
- (10) Includes 12,292 shares subject to stock options.
- (11) A group consisting of Mr. Choi and UAD 7/21/01 FBO Choi Family Living Trust filed a Form 4 on August 16, 2012 reporting the following beneficial ownership: (i) 1,945,596 shares of common stock held directly by Mr. Choi, as to which he has the sole power to vote and dispose or direct the disposition; and (ii) 233,472 shares of common stock held by UAD 7/21/01 FBO Choi Family Living Trust, as to which Mr. Choi has the sole power to vote and dispose or direct the disposition. Beneficial ownership information is supplied per the Schedule 13/D/A. The address for Mr. Choi, as set forth in the Form 4 filed August 16, 2012, is c/o Cathedral Hill Associates, 14299 Firestone Boulevard, La Mirada, CA 90638.
- (12) A group consisting of Mary J. Nyberg and Charles D. Nyberg, as co-trustees of CDMJ Nyberg Family Trust, U/A/D June 9, 2005 filed a Schedule 13G on February 9, 2013 ( the Schedule 13G ) reporting the following beneficial ownership: (i) 648,024 shares of common stock held by CDMJ Nyberg Family Trust U/A/D June 9, 2005, as to which Mr. and Mrs. Nyberg has the sole power to vote and dispose or direct the disposition. Beneficial ownership information is supplied per the Schedule 13G. The address for the CDMJ Nyberg Family Trust is 6442 E. Crested Saguaro Lane, Scottsdale, AZ 85266.
- (13) Includes 733,227 shares subject to stock options.

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

On January 16, 2008, the Company and Saneron CCEL Therapeutics, Inc. ( Saneron ) entered into a research and development agreement whereby the Company and Saneron will collaborate on research utilizing the Company s menstrual stem cell technology in pre-clinical models for certain neurological diseases and disorders. Under terms of the agreement, the Company will provide Saneron with menstrual stem cells along with proprietary methodology associated with the technology. Saneron will provide study materials and develop research methodology for potential therapeutic applications associated with designated pre-clinical applications. Intellectual property resulting from this research collaboration will be jointly owned by the parties. The Company does not have any funding requirements with regard to the collaboration agreement. Cryo-Cell owns an approximate 34% equity interest in Saneron. This agreement was entered into as a result of arms length negotiations.

David Portnoy, the Company s Chairman and Co-Chief Executive officer, is the brother of the Company s Co-Chief Executive Officer Mark Portnoy. The Company s Audit Committee Chairman, Harold Berger, provides accounting services to the Company s Co-Chief Executive Officer Mark Portnoy.

**Table of Contents****Approval of Related Party Transactions**

Historically, the Company followed a policy of review and approval of transactions with directors, executive officers and their affiliates by the board of directors, with interested members of the board of directors abstaining from voting on approval of the transactions. Under this policy, the board of directors would approve such transactions only if they were found to be on terms no less favorable to the Company than would be available from third parties in arms-length transactions. On March 4, 2008, the Board of Directors adopted a policy that the Company will not enter into any transaction or commercial relationship with any director, director nominee, executive officer or greater than 5% stockholder of the Company.

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

The following table presents fees for professional audit services rendered by Grant Thornton LLP for the audit of the Company's financial statements for the fiscal years ended November 30, 2012 and November 30, 2011 and fees billed for other services rendered by Grant Thornton LLP during these periods.

|            | 2012       | 2011       |
|------------|------------|------------|
| Audit Fees | \$ 312,572 | \$ 339,857 |
| Tax Fees   | 40,872     | 39,680     |
| Other      | 0          | 0          |
| Total      | \$ 353,444 | \$ 379,537 |

**Audit Fees**

Audit fees consisted of the aggregate fees billed by our principal accountants for professional services rendered for the audit of the Company's annual financial statements set forth in the Company's Annual Report on Form 10-K for the fiscal years ended November 30, 2012 and November 30, 2011 as well as assistance with and review of documents filed with the SEC.

**Tax Fees**

Tax fees consisted of the aggregate fees billed by our principal accountants for professional services rendered for tax compliance, tax advice and tax planning for the fiscal years ended November 30, 2012 and November 30, 2011.

**Other Fees**

The Company did not incur other fees by our principal accountants for the fiscal years ended November 30, 2012 and November 30, 2011.

The policy of the Company's audit committee is to review and pre-approve both audit and non-audit services to be provided by the independent auditors (other than with *de minimis* exceptions permitted by the Sarbanes-Oxley Act of 2002). This duty may be delegated to one or more designated



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members of the audit committee with any such approval reported to the committee at its next regularly scheduled meeting. All of the fees described above under the captions Audit-Related Fees , Tax Fees and Other Fees and paid to Grant Thornton LLP were pre-approved by the audit committee.

No services in connection with appraisal or valuation services, fairness opinions or contribution-in-kind reports were rendered by Grant Thornton LLP. Furthermore, no work of Grant Thornton LLP with respect to its services rendered to the Company was performed by anyone other than Grant Thornton LLP.

**Table of Contents****Part IV****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.**

| Exhibit<br>No. | Description   |
|----------------|---|
| 3.1 (1)        | Amended and Restated Certificate of Incorporation   |
| 3.2 (2)        | Amended and Restated By-Laws  |
| 10.6 (3)       | Secondary Storage Agreement with Safti-Cell, Inc. dated October 1, 2001   |
| 10.7 (3)       | Addendum Agreement dated November 2001 to Secondary Storage Agreement with Safti-Cell, Inc.   |
| 10.9 (4)       | Lease Agreement dated April 15, 2004 between Brooker Creek North, LLP and the Company   |
| 10.10 (5)      | Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.11 (6)      | Employment Agreement with Jill M. Taymans dated November 1, 2005.   |
| 10.12 (6)      | Forms of Stock Option Agreements under 2000 Stock Incentive Plan.   |
| 10.13 (7)      | First Lease Amendment by and between the Company and Brooker Creek North I, LLP, dated June 7, 2006.  |
| 10.14 (8)      | 2006 Stock Incentive Plan   |
| 10.15 (9)      | Employment Agreement dated April 1, 2007 between the Company and Julie Allickson  |
| 10.16 (10)     | Agreement dated June 4, 2007 by and among the Company and Andrew J. Filipowski, the Andrew J. Filipowski Revocable Trust and Matthew G. Roszak                          |
| 10.17 (11)     | Agreement dated January 24, 2008 by and among the Company and Andrew J. Filipowski, the Andrew J. Filipowski Revocable Trust, Matthew G. Roszak and SilkRoad Equity LLC |
| 10.18 (11)     | Agreement dated January 24, 2008 by and among the Company and Ki Yong Choi and the UAD 7/21/01 FBO Choi Family Living Trust   |
| 10.20 (12)     | Amendment dated July 16, 2007, amending Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.21 (13)     | Amendment dated July 18, 2008, amending Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.22 (13)     | Amendment dated July 18, 2008, amending Employment Agreement with Jill M. Taymans, dated November 1, 2005   |
| 10.23 (14)     | 2000 Stock Incentive Plan   |
| 10.24 (14)     | Amendment to 2000 Stock Incentive Plan dated April 6, 2004  |
| 10.25 (14)     | Amendment to 2000 Stock Incentive Plan dated August 14, 2008  |
| 10.26 (12)     | Stipulation and Order of Court of Chancery of the State of Delaware dated June 18, 2008   |
| 10.27 (15)     | Employment Agreement with David Portnoy dated December 1, 2011  |
| 10.28 (15)     | Employment Agreement with Mark Portnoy dated December 1, 2011   |
| 10.29 (16)     | Amendment dated, February 13, 2012, amending Employment Agreement with David Portnoy dated  |
| 10.30 (16)     | Amendment dated, February 13, 2012, amending Employment Agreement with Mark Portnoy dated   |
| 10.31 (17)     | Employment Agreement with Oleg Mikulinsky dated March 5, 2012   |
| 23             | Consent of Auditors   |
| 24             | Power of Attorney (included on signature page)  |
| 31.1           | Certification of Co-CEO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002   |

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- 31.2 Certification of Co-CEO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.3 Certification of CFO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

- (1) Incorporated by reference to the Company's Quarterly Report on Form 10-QSB for the quarter ended May 31, 2002.
- (2) Incorporated by reference to the Company's Current Report on Form 8-K filed on March 10, 2008.
- (3) Incorporated by reference to the Company's Annual Report on Form 10-KSB for the year ended November 30, 2002.
- (4) Incorporated by reference to the Company's Quarterly Report on Form 10-QSB for the quarter ended May 31, 2004.
- (5) Incorporated by reference to the Company's Quarterly Report on Form 10-QSB filed for the quarter ended August 31, 2005.
- (6) Incorporated by reference to the Company's Annual Report on Form 10-KSB for the year ended November 30, 2005.
- (7) Incorporated to the Company's Quarterly Report on Form 10-QSB for the quarter ended May 31, 2006.
- (8) Incorporated by reference to Annex B to the Definitive Proxy Statement filed June 1, 2006.
- (9) Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended May 31, 2007.
- (10) Incorporated by reference to the Company's Current Report on Form 8-K filed on June 8, 2007.
- (11) Incorporated by reference to the Company's Current Report on Form 8-K filed on January 25, 2008.
- (12) Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended May 31, 2008.
- (13) Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended August 31, 2008.
- (14) Incorporated by reference to the Company's Annual Report on Form 10-KSB for the year ended November 30, 2008.
- (15) Incorporated by reference to the Company's Current Report on Form 8-K filed on December 7, 2011.
- (16) Incorporated by reference to the Company's Current Report on Form 8-K filed on February 17, 2012.
- (17) Incorporated by reference to the Company's Current Report on Form 8-K filed on March 9, 2012.

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**SIGNATURES**

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Form 10-K to be signed on its behalf by the undersigned thereunto duly authorized.

CRYO-CELL INTERNATIONAL, INC.

By: /s/ David Portnoy  
David Portnoy, Co-Chief Executive Officer

Dated: February 28, 2013

**POWER OF ATTORNEY**

Each of the undersigned officers and directors of Cryo-Cell International, Inc., hereby constitutes and appoints David Portnoy, Mark Portnoy and Jill Taymans, each their true and lawful attorneys-in-fact and agents, for them and in their name, place and stead, in any and all capacities, to sign their names to any and all amendments to this Report on Form 10-K, and other related documents, and to cause the same to be filed with the Securities and Exchange Commission, granting unto said attorneys, full power and authority to do and perform any act and thing necessary and proper to be done in the premises, as fully to all intents and purposes as the undersigned could do if personally present, and the undersigned for himself or herself hereby ratifies and confirms all that said attorney shall lawfully do or cause to be done by virtue hereof.

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons in the capacities indicated:

| SIGNATURE                                | TITLE   | DATE              |
|--|---|-------------------|
| /s/ David Portnoy<br>David Portnoy       | Chairman of the Board and Co-Chief Executive Officer<br>(principal executive officer) | February 28, 2013 |
| /s/ Mark Portnoy<br>Mark Portnoy         | Co-Chief Executive Officer  | February 28, 2013 |
| /s/ Jill Taymans<br>Jill Taymans         | Chief Financial Officer (principal financial and accounting<br>officer)               | February 28, 2013 |
| /s/ Harold Berger<br>Harold Berger       | Director  | February 28, 2013 |
| /s/ George Gaines<br>George Gaines       | Director  | February 28, 2013 |
| /s/ Jonathan Wheeler<br>Jonathan Wheeler | Director  | February 28, 2013 |
| /s/Anthony Atala<br>Anthony Atala        | Director  | February 28, 2013 |

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**EXHIBIT INDEX**

| Exhibit No. | Description   |
|-------------|---|
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| 10.7 (3)    | Addendum Agreement dated November 2001 to Secondary Storage Agreement with Safti-Cell, Inc.   |
| 10.9 (4)    | Lease Agreement dated April 15, 2004 between Brooker Creek North, LLP and the Company   |
| 10.10 (5)   | Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.11 (6)   | Employment Agreement with Jill M. Taymans dated November 1, 2005.   |
| 10.12 (6)   | Forms of Stock Option Agreements under 2000 Stock Incentive Plan.   |
| 10.13 (7)   | First Lease Amendment by and between the Company and Brooker Creek North I, LLP, dated June 7, 2006.  |
| 10.14 (8)   | 2006 Stock Incentive Plan   |
| 10.15 (9)   | Employment Agreement dated April 1, 2007 between the Company and Julie Allickson  |
| 10.16 (10)  | Agreement dated June 4, 2007 by and among the Company and Andrew J. Filipowski, the Andrew J. Filipowski Revocable Trust and Matthew G. Roszak                          |
| 10.17 (11)  | Agreement dated January 24, 2008 by and among the Company and Andrew J. Filipowski, the Andrew J. Filipowski Revocable Trust, Matthew G. Roszak and SilkRoad Equity LLC |
| 10.18 (11)  | Agreement dated January 24, 2008 by and among the Company and Ki Yong Choi and the UAD 7/21/01 FBO Choi Family Living Trust   |
| 10.20 (12)  | Amendment dated July 16, 2007, amending Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.21 (13)  | Amendment dated July 18, 2008, amending Employment Agreement with Mercedes Walton, dated August 15, 2005  |
| 10.22 (13)  | Amendment dated July 18, 2008, amending Employment Agreement with Jill M. Taymans, dated November 1, 2005   |
| 10.23 (14)  | 2000 Stock Incentive Plan   |
| 10.24 (14)  | Amendment to 2000 Stock Incentive Plan dated April 6, 2004  |
| 10.25 (14)  | Amendment to 2000 Stock Incentive Plan dated August 14, 2008  |
| 10.26 (12)  | Stipulation and Order of Court of Chancery of the State of Delaware dated June 18, 2008   |
| 10.27 (15)  | Employment Agreement with David Portnoy dated December 1, 2011  |
| 10.28 (15)  | Employment Agreement with Mark Portnoy dated December 1, 2011   |
| 10.29 (16)  | Amendment dated, February 13, 2012, amending Employment Agreement with David Portnoy dated  |
| 10.30 (16)  | Amendment dated, February 13, 2012, amending Employment Agreement with Mark Portnoy dated   |
| 10.31 (17)  | Employment Agreement with Oleg Mikulinsky dated March 5, 2012   |
| 23          | Consent of Auditors   |
| 24          | Power of Attorney (included on signature page)  |
| 31.1        | Certification of Co-CEO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002   |
| 31.2        | Certification of Co-CEO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002   |
| 31.3        | Certification of CFO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002  |

## Edgar Filing: CRYO CELL INTERNATIONAL INC - Form 10-K

- 32.1 Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 101 The following materials from Cryo-Cell International, Inc. s Form 10-K for the year ended November 30, 2012, formatted in eXtensible Business Reporting Language (XBRL): (i) Consolidated Statements of Operations, (ii) Consolidated Balance Sheets, (iii) Consolidated Statements of Cash Flows, (iv) Consolidated Statement of Stockholders Deficit and (v) Notes to Audited, Consolidated Financial Statements. Furnished herewith
- (1) Incorporated by reference to the Company s Quarterly Report on Form 10-QSB for the quarter ended May 31, 2002.
  - (2) Incorporated by reference to the Company s Current Report on Form 8-K filed on March 10, 2008.
  - (3) Incorporated by reference to the Company s Annual Report on Form 10-KSB for the year ended November 30, 2002.
  - (4) Incorporated by reference to the Company s Quarterly Report on Form 10-QSB for the quarter ended May 31, 2004.
  - (5) Incorporated by reference to the Company s Quarterly Report on Form 10-QSB filed for the quarter ended August 31, 2005.
  - (6) Incorporated by reference to the Company s Annual Report on Form 10-KSB for the year ended November 30, 2005.
  - (7) Incorporated to the Company s Quarterly Report on Form 10-QSB for the quarter ended May 31, 2006.
  - (8) Incorporated by reference to Annex B to the Definitive Proxy Statement filed June 1, 2006.
  - (9) Incorporated by reference to the Company s Quarterly Report on Form 10-Q for the quarter ended May 31, 2007.
  - (10) Incorporated by reference to the Company s Current Report on Form 8-K filed on June 8, 2007.
  - (11) Incorporated by reference to the Company s Current Report on Form 8-K filed on January 25, 2008.
  - (12) Incorporated by reference to the Company s Quarterly Report on Form 10-Q for the quarter ended May 31, 2008.
  - (13) Incorporated by reference to the Company s Quarterly Report on Form 10-Q for the quarter ended August 31, 2008.
  - (14) Incorporated by reference to the Company s Annual Report on Form 10-KSB for the year ended November 30, 2008.
  - (15) Incorporated by reference to the Company s Current Report on Form 8-K filed on December 7, 2011.
  - (16) Incorporated by reference to the Company s Current Report on Form 8-K filed on February 17, 2012.
  - (17) Incorporated by reference to the Company s Current Report on Form 8-K filed on March 9, 2012.