

## AWARD AGREEMENT

**THIS AWARD AGREEMENT** (the "Agreement") is made and entered into this \_\_\_\_ day of March, 2014, by and between the INDIANA ECONOMIC DEVELOPMENT CORPORATION ("IEDC"), and SWORD DIAGNOSTICS INC., a Delaware corporation with its headquarters located in Indiana (the "Company").

### RECITALS

**WHEREAS**, on December 11, 2013, the Board of Directors of IEDC, acting by and through its Entrepreneurship Committee, approved an award to the Company in the amount of up to \$1,000,000 (the "Award") from the Twenty-First Century Research and Technology Fund under Indiana Code § 5-28-16 *et. seq.*, subject to review of the Award by the State Budget Committee, the relocation of the Company to the State of Indiana, the confirmed receipt by the Company of at least [REDACTED] in capital investment from private (non-governmental) sources (any and all such funds, the "Co-Investment"), and [REDACTED] on the terms and subject to the conditions set forth in this Agreement;

**WHEREAS**, the State Budget Committee reviewed the Award on December 20, 2013;

**WHEREAS**, the Company filed its Application for Certificate of Authority with the Office of the Indiana Secretary of State on January 17, 2014, as amended on February 27, 2014, to transact business in the State of Indiana and designated its principal place of business as 13295 Illinois Street, Suite 229, Carmel, IN 46032;

**WHEREAS**, the Company has raised Co-Investment funds pursuant to the terms of that certain [REDACTED]

**WHEREAS**, [REDACTED]

**NOW, THEREFORE**, in consideration of the mutual covenants set forth in this Agreement, and subject to the following terms and conditions, IEDC and the Company agree as follows:

Certain capitalized terms used in this Agreement are defined in Section 6 hereof.

1. **ISSUANCE OF NOTE AND WARRANT; CLOSING; USE OF PROCEEDS.**
  - 1.1. **Issuance of Note(s) and Warrant(s).**

Subject to the terms and conditions of this Agreement:

(a) IEDC agrees to disburse to the Company the Award amount of up to One Million Dollars (\$1,000,000) (the "Purchase Price").

(b)

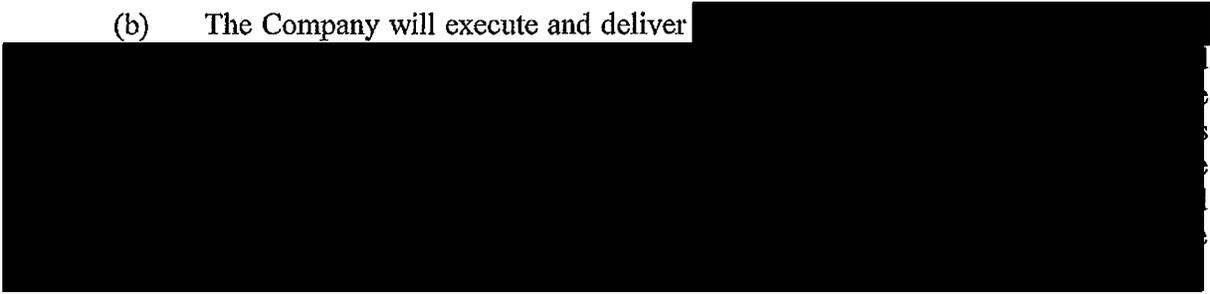


**1.2. Initial Closing.**

Subject to the terms and conditions of this Agreement, the initial closing of the transactions contemplated hereby (the "Initial Closing") will occur as follows:

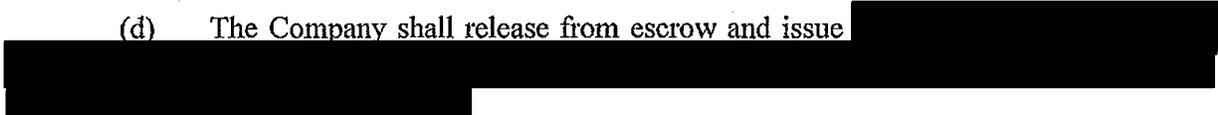
(a) The Company will execute and deliver this Agreement to IEDC;

(b) The Company will execute and deliver

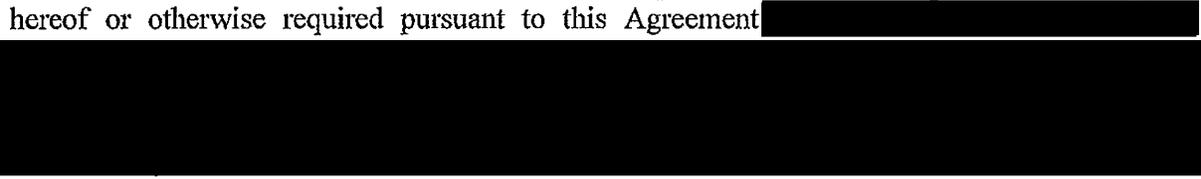


(c) IEDC will deliver the first amount of \$500,000 of the Purchase Price to the Company, by wire or ACH transfer of immediately available funds to an account of the Company to be designated to IEDC prior to the Initial Closing, as soon as reasonably practicable following the execution of this Agreement by IEDC and the Director of the Indiana State Budget Agency;

(d) The Company shall release from escrow and issue



(e) The Company and 21 Fund will execute and deliver to each other such other documents, certificates, instruments and writings required to be delivered pursuant to Section 2 hereof or otherwise required pursuant to this Agreement



**1.3. Subsequent Closing.**

Subject to the terms and conditions of this Agreement, a subsequent closing of the transactions contemplated hereby (a "Subsequent Closing") will occur as follows:

(a) The Company will provide evidence satisfactory to IEDC that it has entered into [REDACTED]

(b) The Company will execute and deliver [REDACTED]

(c) IEDC will deliver the second amount of \$500,000 of the Purchase Price to the Company, by wire or ACH transfer of immediately available funds to an account of the Company to be designated to IEDC prior to the Subsequent Closing, as soon as reasonably practicable following the satisfaction of the condition described in Section 1.3(a) above;

(d) The Company shall release from escrow and issue [REDACTED]

(e) The Company and 21 Fund will execute and deliver to each other such other documents, certificates, instruments and writings required to be delivered pursuant to Section 2 hereof or otherwise required pursuant to this Agreement [REDACTED]

**1.4. Use of Proceeds.**

The proceeds of the transactions contemplated hereby shall be used by the Company solely for general corporate purposes approved by the Company's Board of Directors; provided, however, no proceeds shall be used for the repayment of any indebtedness of the Company, including without limitation the payment of any principal or interest on any of the convertible promissory notes sold and issued by the Company pursuant to the Purchase Agreement, without the prior written consent of IEDC.

**2. CONDITIONS TO CLOSING.**

IEDC's obligation to make the disbursements of the Purchase Price proceeds at each of the Initial Closing and the Subsequent Closing is subject to the fulfillment to IEDC's satisfaction

of the following conditions (for the purposes of this Agreement, the Initial Closing and the Subsequent Closing shall be referred to hereinafter collectively as the "Closing"):

**2.1. Compliance.**

The representations and warranties of the Company in this Agreement shall be true and correct in all material respects as of the date of each respective Closing; the Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by the Company prior to or at the date of each respective Closing; and no Event of Default shall have occurred under any 21 Fund Note as of the date of each respective Closing.

**2.2. Officer's Certificates.**

(a) Compliance Certificate. The Company shall have delivered to IEDC a certificate signed by a senior executive officer, dated the date of each respective Closing, certifying that the conditions specified in Section 2.1 have been fulfilled.

(b) Secretary's Certificate. The Company shall have delivered to IEDC a certificate certifying as to its constituent charter documents, as in effect as of the date of each respective Closing.

**2.3. Required Consents.**

All consents, approvals or authorizations of, or registrations, filings or declarations with, any Governmental Authority or other Person required in connection with the execution, delivery or performance of this Agreement shall have been obtained or made, with the exception of any filings required under federal or state securities laws, which filings shall be made promptly after each respective Closing.

**2.4. No Actions or Proceedings.**

No suit, action or proceeding shall have been instituted or threatened before any court or other Governmental Authority to enjoin, restrain or prohibit, or to obtain damages in respect of, this Agreement or the consummation of the transactions contemplated hereby or which, in IEDC's judgment, would impose material restrictions or risks upon the Company or IEDC if such transactions are consummated.

**2.5. No Material Adverse Change.**

At the date of each respective Closing, no event or circumstance shall have occurred or exist which has had or is reasonably likely to have a Material Adverse Effect.

## **2.6. Proceedings and Documents.**

All corporate and other proceedings which are necessary or appropriate in connection with the transactions contemplated by Transaction Agreements (as defined below) shall have been taken, all documents and instruments incident to such transactions shall be in form and substance reasonably satisfactory to IEDC and its counsel, and IEDC and its counsel shall have received all counterpart originals or certified or other copies of such documents as IEDC or its counsel may reasonably request.

## **3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.**

The Company hereby represents and warrants to IEDC that:

### **3.1. Organization; Power and Authority.**

The Company is duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly authorized to transact business in the State of Indiana and is otherwise duly qualified and in good standing in each other jurisdiction in which such qualification is required by law. The Company has all requisite power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, to execute and deliver this Agreement, the Purchase Agreement, the 21 Fund Note(s), the 21 Fund Warrant(s) and each other agreement, certificate or other document to be executed and delivered by the Company in connection with the transactions contemplated hereby and thereby (collectively, the "Transaction Agreements"), and otherwise to perform the provisions hereof and thereof. The Company has delivered to IEDC true and complete copies of its articles of incorporation, bylaws and all other applicable constituent charter documents, all as in full force and effect as of the date hereof. The Company has no subsidiaries or investments in any other Person.

### **3.2. Authorization; Etc.**

Each of the Transaction Agreements and the transactions contemplated hereby and thereby, have been duly authorized by all necessary action on the part of the Company and constitutes (or at the date of each respective Closing will constitute) a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability now or hereafter in effect relating to or affecting creditors' rights and to general equity principles.

### **3.3. Compliance with Laws, Other Instruments, Etc.**

The execution, delivery and performance by the Company of the Transaction Agreements will not (a) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company under, any of the Company's charter documents or any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, or any other agreement or instrument to which the Company or any of its properties is

bound or subject, (b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or Governmental Authority applicable to the Company or (c) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company.

#### **3.4. Governmental Authorizations; Etc.**

No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority or any other Person is required in connection with the execution, delivery or performance by the Company of the Transaction Agreements, except such as have been duly and validly obtained or filed, or with respect to any filings that must be made after the date of each respective Closing, as will be filed in a timely manner.

#### **3.5. Capitalization; Valid Issuance.**

(a) The authorized capitalization of the Company, and the issued and outstanding Equity Securities of the Company, are as set forth on Schedule 3.5 hereto. The Company's outstanding Equity Securities are owned of record and beneficially by the Persons, and in the respective amounts, specified on Schedule 3.5. All of the outstanding Equity Securities of the Company have been duly authorized and are validly issued, fully paid and nonassessable. Except as described on Schedule 3.5, no Equity Securities of the Company are reserved for future issuance pursuant to outstanding options, warrants, convertible securities or other rights or for any other purpose.

(b) Except as set forth on Schedule 3.5 hereto, (i) there are no options, warrants or other rights (including registration rights), agreements, arrangements, contracts or other commitments of any character to which any Person is a party relating to the issued or unissued Equity Securities of the Company to grant, issue or sell any Equity Securities of the Company by sale, lease, license or otherwise; (ii) there are no obligations, contingent or otherwise, of any Person to repurchase, redeem or otherwise acquire any Equity Securities of the Company; (iii) the Company does not own, and has not agreed to purchase or otherwise acquire, the capital stock or other equity interests of, or any interest convertible into or exchangeable or exercisable for the capital stock or other equity interests of, any other Person; (iv) there are no agreements, arrangements, contracts or other commitments of any character (contingent or otherwise) pursuant to which any Person is or may become entitled to receive any payment based on the revenues or earnings, or calculated in accordance therewith, of the Company; and (v) there are no voting trusts, proxies or other agreements, arrangements, contracts or other commitments by which any Person is bound with respect to the ownership, transfer or voting of any Equity Securities of the Company.

(c) Upon any conversion of any 21 Fund Note into Equity Securities as provided for in each 21 Fund Note, such Equity Securities will be duly authorized, validly issued, fully paid and nonassessable.

### **3.6. Related Party Arrangements.**

Except as described on Schedule 3.6, neither any current or former director, manager, officer or employee of the Company, or any Affiliate of the Company or of any such director, manager, officer or employee, is a party to any agreement, arrangement, contract or other commitment to which the Company is a party or by which any of its properties or assets is bound, or has a Material interest in any of the assets, properties or rights owned by, used in or pertaining to the business of the Company.

### **3.7. Financial Statements; Absence of Certain Changes.**

(a) The Company has delivered to IEDC copies of its unaudited financial statements for the year ended December 31, 2013. Such financial statements (including the related schedules and notes) fairly present in all Material respects the financial position of the Company as of the date(s) thereof and the results of its operations and cash flows for the period(s) covered thereby and have been prepared in accordance with GAAP consistently applied throughout the period(s) involved except as set forth in the notes thereto. Except as disclosed or reflected in such financial statements, there are no obligations or liabilities, whether or not accrued, contingent or otherwise, or any facts or circumstances of which the management of the Company is aware, that could result in any obligations or liabilities of the Company that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth on Schedule 3.7, since the date of the balance sheet included in the financial statements referred to above, the Company has conducted its business only in, and has not engaged in any Material transaction other than according to, the ordinary and usual course of such business and there has not been (a) any declaration, setting aside or payment of any dividend or other distribution in respect of the Equity Securities of the Company; (b) any sale, lease, license, pledge, mortgage or other transfer or disposition of any Material properties or assets of the Company; (c) any incurrence by the Company of any indebtedness or any Material obligations or liabilities of the Company, whether or not accrued, contingent or otherwise; (d) any Material capital expenditure or other commitment for additions to property, plant or equipment by the Company; (e) any increase in the compensation payable or which could become payable by the Company to its officers or key employees; or (f) any change by the Company in accounting principles, practices or methods.

### **3.8. Existing Debt and Liens.**

Except as set forth on Schedule 3.8, (a) the Company has no outstanding debt for borrowed money; (b) none of the Company's property, whether now owned or hereafter acquired, is subject to any Lien, and (c) the Company has not agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to any Lien. The Company is not in default and no waiver of default is currently in effect, in the payment of any principal or interest on any debt of the Company and no event or condition exists with respect to any debt of the Company that would permit (or that with notice or the lapse of time, or both, would permit) one

or more Persons to cause such debt to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

### **3.9. Litigation; Observance of Agreements, Statutes and Orders; Permits.**

(a) There are no actions, suits or proceedings pending or, to the knowledge of the Company, threatened against the Company or any property of the Company in any court or before or by any Governmental Authority.

(b) The Company is not in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court or Governmental Authority, or in violation of any applicable law, ordinance, rule or regulation of any Governmental Authority.

(c) The Company owns or possesses all licenses, permits, franchises and other authorizations from Governmental Authorities required by all applicable laws, ordinances, rules and regulations, necessary for the operation of its business.

### **3.10. Taxes.**

The Company has filed all tax returns that are required to have been filed in any jurisdiction, and has paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon it or its properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments the nonpayment of which in the aggregate could not reasonably be expected to have a Material Adverse Effect.

### **3.11. Debarment.**

The Company certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer or director of the Company. The Company certifies that it has verified the suspension and debarment status for it and its principals and acknowledges that it shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The Company shall immediately notify IEDC if any of its principals become debarred or suspended, and shall consent, at IEDC's request, to the termination of this Agreement and repayment of each 21 Fund Note.

### **3.12. Title to Property; Leases and Licenses.**

The Company has good and sufficient title or rights to use its properties that individually or in the aggregate are Material, including all such properties reflected in its most recent balance sheet delivered to IEDC (except as sold or otherwise disposed of in the ordinary course of

business since that date). All leases or licenses that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all Material respects.

### **3.13. Intellectual Property.**

Schedule 3.13 sets forth a true and complete list of all of the Company's registered or issued Intellectual Property and all related licenses, sublicenses and other written agreements relating to the Intellectual Property to which the Company is a party, including the identity of all parties thereto. Except as specifically disclosed on Schedule 3.13:

(a) The Company owns or has a valid and legal right to use all of the Intellectual Property, all of which is sufficient to conduct the business of the Company in the manner currently being conducted and proposed to be conducted. The Company has delivered to IEDC true and complete copies of all license agreements and any other agreements of any nature relating to the Intellectual Property, each as amended and in full force and effect on the date hereof, all of which are listed on Schedule 3.13. Neither the Company nor, to the knowledge of the Company, any other party thereto is in default under any term of any of such agreements.

(b) The Company is not obligated to pay to any Person any fee, royalty or other payment as a result of the Company's use of the Intellectual Property.

(c) The Company's ownership or use of the Intellectual Property does not, to the knowledge of the Company, infringe any intellectual property rights or other proprietary rights of any other Person, and the Company has not received any notice from any Person that the Company's ownership or use of any Intellectual Property infringes on any trademark, service mark, trade name, invention, patent, trade secret, copyright, domain name, know-how or any other type of proprietary intellectual property right of any other Person.

(d) To the knowledge of the Company, no Person is infringing on, and there are no facts that a reasonable person would conclude provide a valid basis for any such claim that any Person is infringing on, any of the Intellectual Property.

(e) No Intellectual Property owned by the Company is subject to any outstanding agreement, stipulation or order restricting the use thereof by the Company or restricting the licensing thereof by the Company to any Person.

(f) All developers, creators, inventors and authors of any Intellectual Property owned by the Company who were not employees of the Company at the time of the development, creation, invention or authorship of such Intellectual Property have, or their employers or prime contractors have, assigned in writing all of their rights, title and interest to such Intellectual Property to the Company. All Intellectual Property owned by the Company and developed, created, invented, or authored by employees of the Company at the time of such development, creation, invention or authorship are the sole property of the Company and no such employee has any rights, title or interest in such Intellectual Property. All employees of the Company have executed and delivered to the Company an agreement transferring to the Company any

Intellectual Property that is owned by the Company which was developed, created, invented or authored by such employee.

(g) The Company has not entered into any license or other agreement pursuant to which the Company has granted to any other Person the right to use any of the Intellectual Property.

### **3.14. Private Offering by the Company.**

Neither the Company nor anyone acting on its behalf has offered the 21 Fund Note or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than IEDC and other Persons who are "accredited investors" as defined in the Securities Act, each of which has been offered such securities at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of any 21 Fund Note to the registration requirements of Section 5 of the Securities Act.

### **3.15. Disclosures.**

The representations, warranties and other information regarding the Company set forth in the Transaction Agreements and any certificates delivered to IEDC in connection with the transactions contemplated hereby and thereby, are true, accurate and complete in all Material respects, fairly describe the business and properties of the Company and do not contain any untrue statement of a Material fact or omit to state any Material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.

## **4. BOARD REPRESENTATION; ETC.**

### **4.1. Board of Directors.**

(a) The business and affairs of the Company shall be managed under the direction of a Board of Directors (sometimes hereinafter referred to as "Directors" in their capacity as such), including one representative designated by 21 Fund as a member of the Company's Board of Directors (the "21 Fund Representative"), subject to the terms of section 4.1(b) below.

(b) If at any time, and for so long as, 21 Fund holds the 21 Fund Note(s) [REDACTED]

[REDACTED] (i) the Company shall cause to be nominated and elected and re-elected one 21 Fund Representative and (ii) the 21 Fund Representative shall be a member of all committees of the Board. IEDC may remove and replace any Director designated by it hereunder at any time upon at least five (5) business days' advance written notice to the Company.

(c) If at any time IEDC has not designated (or no longer has the right to designate) a representative on the Board of Directors, the Company shall nevertheless invite a representative of 21 Fund to attend all meetings of the Company's Board of Directors and all committees

thereof in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents and other materials that it provides to its Directors; provided, that the Company may reserve the right to withhold any information and to exclude any such representative from any meeting or portion thereof if, in the opinion of counsel for the Company (a copy of which shall be delivered to 21 Fund), denial of access to such information or attendance at such meeting is reasonably necessary to preserve the attorney-client privilege or to maintain the confidentiality of confidential and proprietary information of the Company.

#### **4.2. Regular Board Meetings.**

Regular meetings of the Board of Directors shall be held on at least a quarterly basis, at such times and places as may be fixed by the Board of Directors. At least four (4) calendar days in advance of each regular meeting of the Board, each Director shall be provided information with respect to the current operating results of the Company, the Company's performance in relation to any applicable budget of the Company and such other information as is customarily provided to members of a board of directors of a corporation or that any Director may reasonably request.

#### **4.3. Expenses; Indemnification.**

(a) The Company shall pay the reasonable out-of-pocket expenses incurred by the 21 Fund Representative in connection with attending meetings of the Board or any committee thereof, [REDACTED]

(b) The Company shall indemnify, to the fullest extent permitted by law as currently in effect or as the same may hereafter be amended, the 21 Fund Representative if he or she is made or threatened to be made a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that the 21 Fund Representative or his or her testator or intestate is or was a Director of the Company. To the fullest extent permitted by law as currently in effect or as the same may hereafter be amended, expenses incurred by any such Person in defending any such action, suit or proceeding shall be paid or reimbursed by the Company promptly upon receipt by it of an undertaking of such Person to repay such expenses if it shall ultimately be determined that such Person is not entitled to be indemnified by the Company. The rights provided to any Person by this subsection (b) shall be enforceable against the Company by such Person, who shall be presumed to have relied upon it in serving or continuing to serve as a Director of the Company. No amendment or termination of this Agreement shall impair the rights of any Person arising at any time with respect to events occurring prior to such amendment or termination.

### **5. COVENANTS OF THE COMPANY; INFORMATION AS TO THE COMPANY; INSPECTION.**

#### **5.1. Covenants of the Company.**

The Company covenants and agrees that, for so long as (i) any amounts remain

outstanding under the 21 Fund Note(s) or (ii) 21 Fund holds any Equity Securities which are to be issued upon conversion of the 21 Fund Note(s), it will:

(a) The Company shall use the Award proceeds only for the purposes described in Section 1.3.

(b) The Company shall maintain its status as an "Indiana business", as such term is defined in Indiana Code § 5-22-15-20.5(b); provided, however, in the event that the Company is subject to any sale or merger, including a sale of substantially all of its assets or the sale of the Company's Equity Securities, or any other transaction or series of related transactions wherein (i) at least fifty percent (50%) of the equity or voting control of the Company is transferred to another entity, and (ii) 21 Fund has the right to participate in the proposed transfer on a pro rata basis (as among the transferee and the holders of the Company's Equity Securities) (a "Transaction"), IEDC hereby fully waives the requirements of this Section 5.1(b) and releases the Company and its successors (including, for the avoidance of doubt, that entity purchasing the assets, equity, or control of the Company pursuant to a Transaction) of all obligations to satisfy such requirements.

(c) The Company shall promptly give 21 Fund written notice of: (i) any Event of Default (as defined in each 21 Fund Note), together with a written statement of the action being taken by the Company to remedy such Event of Default; (ii) any litigation or proceeding before any court or governmental authority which, if adversely determined, might reasonably be expected to materially and adversely affect the Company's operations, financial condition or ability to perform any of its obligations under this Agreement; or (iii) any changes, amendments, or modifications to existing contracts, or agreements that materially and adversely affect the Company's operations, financial conditions or ability to perform any of its obligations under this Agreement.

(d) The Company shall use its best efforts to possess and maintain all material intellectual property rights necessary to the conduct of its business and own all right, title and interest in and to, or have a valid license for, all material intellectual property rights used by the Company in the conduct of its business. The Company shall not knowingly take any action, or fail to take any action, which would result in the invalidity, abuse, misuse or unenforceability of such intellectual property rights or which would infringe upon any rights of any one or more Persons.

(e) The Company shall maintain insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies engaged in similar businesses and owning similar properties in the same general areas in which the Company operates.

(f) Compliance with Laws:

(i) The Company shall comply in all material respects with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The Company's acknowledgements, certifications, representations, warranties and agreements set forth in

this Agreement shall in no way limit the generality of the foregoing. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by IEDC and the Company to determine whether the provisions of this Agreement require formal modification.

(ii) The Company and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with IEDC, as set forth in Indiana Code §4-2-6 *et seq.*, Indiana Code §4-2-7 *et seq.*, the regulations promulgated thereunder, Executive Order 04-08, dated April 27, 2004, Executive Order 05-12, dated January 10, 2005, and 25 Indiana Administrative Code 6, effective January 1, 2006. If the Company, or any of its agents, are not familiar with these ethical requirements, they should refer any questions to the State Ethics Commission, or visit the State Ethics Commission website at <http://www.in.gov/ethics/>. If the Company or any of its agents violate any applicable ethical standards, IEDC may, in its sole discretion, terminate this Agreement immediately upon notice to the Company. In addition, the Company may be subject to penalties under Indiana Code § 4-2-6-12.

(iii) The Company shall obtain and maintain all required material permits, licenses, and approvals, as well as comply with all applicable material health, safety, and environmental statutes, rules, or regulations for its operations as may be required by any Governmental Authority having jurisdiction or regulatory authority over the Company. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further rights to contract with IEDC.

(iv) The Company agrees that IEDC may confirm, at any time, that no liabilities exist to IEDC, and, if such liabilities are discovered, that IEDC may bar the Company from contracting with IEDC and the State of Indiana in the future, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until the Company is current in its payments on its liability to IEDC and has submitted proof of such payment to IEDC.

(v) As required by Indiana Code § 5-22-3-7:

(A) The Company, and its principals, certify that (1) the Company, except for de minimis and nonsystematic violations, has not violated the terms of (a) Indiana Code § 24-4.7 [Telephone Solicitation Of Consumers], (b) Indiana Code § 24-5-12 [Telephone Solicitations], or (c) Indiana Code § 24-5-14 [Regulation of Automatic Dialing Machines] in the previous 365 days, even if Indiana Code § 24-4.7 is preempted by federal law; and (2) the Company will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

(B) The Company certifies that, except for de minimis and nonsystematic violations, neither it nor any of its affiliates or principals and agents have violated in the previous 365 days, or will violate for the duration of this Agreement, the terms of Indiana Code § 24-4.7, even if Indiana Code § 24-4.7 is preempted by federal law.

(g) Conflict of Interest:

(i) As used in this section:

“Immediate Family” means the spouse and the unemancipated children of an individual.

“Interested Party,” means:

(A) The individual executing this Agreement on behalf of the Company;

(B) An individual who has an interest of one percent (1%) or more of the Company; or

(C) Any member of the Immediate Family of an individual specified under the foregoing subdivision (A) or (B).

“Commission” means the Indiana State Ethics Commission.

(ii) IEDC may cancel this Agreement without recourse by the Company if any Interested Party is an employee of IEDC.

(iii) IEDC will not exercise its right of cancellation under subpart (ii), immediately above, if the Company gives IEDC an opinion by the Commission indicating that the existence of this Agreement and the employment by IEDC of the Interested Party does not violate any statute or rule relating to ethical conduct of IEDC employees. IEDC may take action, including cancellation of this Agreement, consistent with an opinion of the Commission obtained under this section suggesting a violation of any statute or rule relating to ethical conduct.

(iv) The Company has an affirmative obligation under this Agreement to disclose to IEDC when an Interested Party is or becomes an employee of IEDC. The obligation under this section extends only to those facts that the Company knows or reasonably could know.

(h) Drug-Free Workplace Certification:

The Company hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Company will give written notice to IEDC within ten (10) days after receiving actual notice that the Company or an employee of the Company has been convicted of a criminal drug violation occurring in the Company's workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of loan payments, termination of the Loan and/or debarment of loan and contract opportunities with IEDC for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in this Agreement is in excess of \$25,000.00, the Company hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following Certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all loans with and loans from IEDC in excess of \$25,000.00. No loan, the total amount of which exceeds \$25,000.00, shall be made or be valid unless and until this certification has been fully executed by the Company and made a part of the loan or loan agreement.

The Company certifies and agrees that it will provide a drug-free workplace by:

(i) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Company's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(ii) Informing its employees of (a) the dangers of drug abuse in the workplace; (b) the Company's policy of maintaining a drug-free workplace; (c) any available drug counseling, rehabilitation, and employee assistance programs; and (d) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(iii) Notifying all employees in the statement required by subparagraph (i) above that as a condition of continued employment the employee will (a) abide by the terms of the statement; and (b) notify the Company in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction;

(iv) Notifying in writing IEDC within ten (10) calendar days after receiving notice from an employee under subdivision (iii)(b) above or otherwise receiving actual notice of such conviction. Notification must include the loan identifier number for each affected loan;

(v) Within thirty (30) days after receiving notice under subdivision (iii)(b) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

(vi) Making a good faith effort to continue to maintain a drug-free workplace through the implementation of subparagraphs (i) through (v) above.

(i) Pursuant to Indiana Code § 22-9-1-10, the Age Discrimination in Employment

Act, the Americans with Disabilities Act, and the Civil Rights Act of 1964, the Company shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, religion, sex, disability, national origin or ancestry. Acceptance of this Agreement also signifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran. Breach of one or both of these covenants may be regarded as a material breach of this Agreement.

(j) The Company shall indemnify, defend, and hold harmless IEDC and the State of Indiana and their respective agents, officers, employees and representatives from all claims and suits for damages or loss or damage to property, including the loss of use thereof, and injuries to or death of persons, including without limitation any officers, agents, employees and representatives of the Company or its contractors, and from all judgments recovered therefor and for expenses in defending any such claims or suits, including court costs, attorneys' fees, and for any other expenses caused by an act or omission of the Company or its grantees, contractors, agents, officers or employees in connection with performance of this Agreement. IEDC shall not provide such indemnity to the Company.

(k) The Company shall promptly cure, and ratify the cure of, any defects in the creation, issuance, and delivery of the Transaction Agreements. The Company, at its expense, will execute (or cause to be executed) and deliver to IEDC and/or 21 Fund, upon reasonable request, all such other and further documents, agreements, and instruments in compliance with or accomplishment of any covenant or agreement of the Company in the Transaction Agreements, or to correct any omissions therein, or to state more fully the obligations and agreements set out therein, or to perfect, protect, or preserve any encumbrances intended to be created pursuant thereto, or to make any recordings, to file any notices, or to obtain any consents, all as may be reasonably necessary or appropriate in connection therewith.

## 5.2 Financial and Business Information.

For so long as 21 Fund owns either (i) the 21 Fund Note(s) or (ii) the Equity Securities upon conversion thereof, the Company shall deliver to 21 Fund:

(a) Monthly Statements. As soon as available, but in any event not later than 30 days after the end of each month, management's internally prepared unaudited statement of cash-flows of the Company for such month and for the period from the beginning of the applicable fiscal year to the end of such month.

(b) Quarterly Statements. As soon as available, but in any event not later than 45 days after the end of each quarter, the compiled balance sheet, income statement and statement of cash-flows of the Company for such quarter and for the period from the beginning of the applicable fiscal year to the end of such quarter, setting forth in each case in comparative form the figures for the comparable periods of the previous fiscal year.

(c) Annual Statements. As soon as available, but in any event within 120 days after the end of each fiscal year, the reviewed balance sheet, income statement and statement of cash-flows of the Company for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year.

(d) Annual Budgets. As soon as available, but in any event prior to the beginning of each fiscal year, an annual budget of the Company approved by the Board of Directors for such fiscal year presented on a monthly basis in reasonable detail, and promptly upon preparation thereof, any revisions of such budget.

(e) Notice of Material Violations. Promptly, and in any event within five business days after any officer of the Company becomes aware thereof, written notice of the occurrence of any violation that has had or could reasonably be expected to have a Material Adverse Effect, specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto.

(f) Notices from Governmental Authorities. Promptly, and in any event within five business days after any officer of the Company becomes aware thereof, copies of any notice to the Company from any federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that could reasonably be expected to have a Material Adverse Effect.

(g) Notice of Material Litigation. Promptly, and in any event within five business days after any officer of the Company becomes aware thereof, written notice of the commencement of any suit, actions or proceeding against the Company that, if determined adversely to the Company, could reasonably be expected to have a Material Adverse Effect.

(h) Requested Information. Subject to Section 5.3 below, with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets, properties or prospects of the Company as IEDC may from time to time reasonably request.

### **5.3. Inspection.**

As often as may be reasonably requested, the Company shall permit any authorized representative designated by 21 Fund, at 21 Fund's own expense (or at the Company's expense during the continuance of any Event of Default, as defined in each 21 Fund Note), to visit the offices and properties of the Company and inspect any of the Company's books of account, records, reports and other books and records, and to make copies and take extracts therefrom, and to discuss its affairs, finances and accounts with the Company's officers and its independent accountants, all upon at least two (2) business days' notice and at reasonable times during normal business hours; provided, however, that the Company shall not be obligated pursuant to this Section 5.3 to provide access to any information that it reasonably considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel. Notwithstanding the foregoing, such

inspections shall be scheduled at a time and conducted in a manner intended to minimize the disruption to the day-to-day operations of the Company.

## 6. CERTAIN DEFINITIONS.

As used in this Agreement, the following terms have the following respective meanings:

“Affiliate” means, with respect to any Person, (a) any director, manager, officer or partner of such Person; (b) any other Person that beneficially owns, directly or indirectly, 50% or more of any class of voting or equity interests of such Person; (c) any other Person of which such Person beneficially owns, directly or indirectly, equity securities having 50% or more of any class of voting or equity interests of such other Person; and (d) any other Person controlling, controlled by or under common control with such Person where the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting or equity securities or otherwise.

“Equity Securities” means the Common Stock and any other equity securities, and securities convertible into or exchangeable for equity securities, of any class or series of the Company (including, without limitation, any preferred stock), and any options, warrants or other rights to acquire any of the foregoing.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America.

“Governmental Authority” means (a) the government of (i) the United States of America or any state or other political subdivision thereof, or (ii) any jurisdiction in which the Company conducts all or part of its business, or which asserts jurisdiction over any properties of the Company, or (b) any entity exercising, executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

“Intellectual Property” means all trademarks, trademark rights, service marks, service mark rights, tradenames, tradename rights, copyrights, works of authorship, inventions (whether patentable or not), invention disclosures, industrial models, industrial designs, utility models, certificates of invention, designs, emblems and logos, trade secrets, manufacturing formulae, technical information, patents, patent applications, mask work registrations, franchises, franchise rights, customer and supplier lists and related identifying information together with the goodwill associated therewith, product designs, product packaging, business and product names, slogans, rights of publicity, improvements, processes, specifications, technology, methodologies, computer software (including all source code and object code), firmware, development tools, flow charts, annotations, all Web addresses, sites and domain names, all data bases and data collections and all rights therein, any other confidential and proprietary right or information, whether or not subject to statutory registration, and all related technical information, manufacturing, engineering and technical drawings, know-how and all pending applications and registrations of patents, and the right to sue for past infringement, if any, in connection with any of the foregoing, and all documents, disks, records, files and other media on which any of the

foregoing is stored, and other proprietary rights, in the case of each of the foregoing which is owned by the Company or used or held for use by the Company in connection with its business. In no event shall the definition of Intellectual Property include any rights to course materials or similar intellectual property obtained from authors, publishers or other third parties.

“Lien” means any mortgage, lien, pledge, charge, security interest or other encumbrance of any nature whatsoever (including in the case of liens on Equity Securities, stockholder agreements, voting trust agreements and all similar arrangements).

“Material” means material in relation to the business, operations, affairs, financial condition, assets, properties or prospects of the Company.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company, (b) the ability of the Company to perform its obligations under this Agreement or the 21 Fund Note(s), or (c) the validity or enforceability of this Agreement or the 21 Fund Note(s).

“Person” means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations thereunder, all as the same shall be in effect from time to time.

“Subsidiary” means, as to any Person, any corporation, association or other business entity in which such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such entity, and any partnership, limited liability company or joint venture if more than a 50% interest in the profits or capital thereof is owned by such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries (unless such partnership, limited liability company or joint venture can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a “Subsidiary” is a reference to a Subsidiary of the Company.

“Violation” or “violation” means a material breach or material violation of, a default under, the acceleration of or the creation of any lien, pledge, security interest, claim, charge or other encumbrance of any nature whatsoever (with or without the giving of notice or the lapse of time, or both) pursuant to, any provision of any agreement, lease, license, contract, note, mortgage, indenture, arrangement or other obligation to which the Company is a party or by which any of its assets or properties is bound, or any law, rule, ordinance or regulation or any judgment, decree, order, award or governmental or non-governmental permit to which the Company is subject.

**7. MISCELLANEOUS.**

**7.1. Further Assurances.**

Each party hereto respectively will use all reasonable efforts to take, or cause to be taken, all actions and do, or cause to be done, all other things necessary, proper or appropriate under applicable laws, regulations and contracts to consummate and thereafter make effective the transactions contemplated by this Agreement.

**7.2. Survival; Indemnification.**

(a) The representations, warranties, covenants and agreements of the parties contained in this Agreement shall survive the date of each respective Closing.

(b) The Company will indemnify and hold harmless IEDC against all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against IEDC in any way relating to or arising out of this Agreement or the transactions contemplated hereby.

**7.3. Modification, Amendment or Termination.**

The parties hereto may modify, amend or terminate this Agreement at any time, only by written agreement duly executed and delivered by each party hereto.

**7.4. Severability.**

If any term or other provision of this Agreement, or any portion thereof, is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Agreement, or remaining portion thereof, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any such term or other provision, or any portion thereof, is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are consummated to the fullest extent possible.

**7.5. Notices.**

All notices and correspondence pursuant to this Agreement shall be delivered to the parties hereto as follows:

If to the Company:   Sword Diagnostics Inc.  
Attn: [REDACTED]  
13295 Illinois Street, Suite 229  
Carmel, IN 46032

If to IEDC: Indiana Economic Development Corporation  
Attn: General Counsel  
One North Capitol Avenue, Suite 700  
Indianapolis, Indiana 46204

With a copy to: Indiana 21<sup>st</sup> Century Fund, L.P.  
c/o Elevate Advisors, LLC  
Attn: Vice President of Investments  
50 East 91<sup>st</sup> Street, Suite 213  
Indianapolis, Indiana 46240

**7.6. Governing Law; Jurisdiction.**

The Transaction Agreements and all other matters relating to the transactions covered herein shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to the conflicts of laws principles thereof, and any suit related to this Agreement, any other Transaction Agreement or other matters related to the transaction covered herein must be brought in Indiana and the Company consents to personal jurisdiction in the State of Indiana.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES APPEAR ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, the parties to this Award Agreement, having read and understood the foregoing terms of hereof, hereby do, by their respective authorized representatives, agree to the terms hereof.

**"Company"**

**"IEDC"**

**SWORD DIAGNOSTICS INC.**

**INDIANA ECONOMIC DEVELOPMENT CORPORATION**

**INDIANA TWENTY-FIRST CENTURY RESEARCH AND TECHNOLOGY FUND**

By:  \_\_\_\_\_

By:  \_\_\_\_\_

Printed: David Dingott

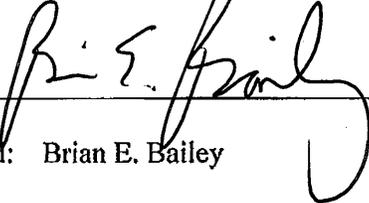
Printed: Eric R. Doden

Title: President & CEO

Title: President

**APPROVED:**

**STATE BUDGET AGENCY**

By:  \_\_\_\_\_

Printed: Brian E. Bailey

Title: Director

**DISCLOSURE SCHEDULES  
TO  
AWARD AGREEMENT**

These Disclosure Schedules qualify that certain Award Agreement, dated as of March \_\_\_\_\_, 2014, by and between Sword Diagnostics Inc. and the Indiana Economic Development Corporation.

**Schedule 3.5**

**Capitalization**

**REDACTED**

REDACTED

REDACTED

REDACTED

**Schedule 3.6**

**Related Party Arrangements**

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**Schedule 3.7**

**Financial Statements**

REDACTED

3:16 PM  
02/27/14

REDACTED

3:12 PM  
02/27/14  
Accrual Basis

REDACTED

REDACTED

REDACTED

**Schedule 3.8**

**Existing Debt and Liens**

REDACTED

**Schedule 3.13**

**Intellectual Property**

REDACTED

**EXHIBIT A**

**Convertible Note and Warrant Purchase and Security Agreement**

**REDACTED**