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STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (the “Stipulation”) is submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure. Subject to the approval of the Court, this Stipulation is entered into among Lead Plaintiff Robert Poteet on behalf of himself and the Class (as hereinafter defined), by and through his respective counsel, and Defendants Tripath Technology Inc. (“Tripath”), Adya S. Tripathi, David P. Eichler, and Graham K. Wright (collectively, the “Defendants”).

WHEREAS:

A. Beginning on November 4, 2004, four class actions alleging violations of federal securities laws – *Abraham Goldberg v. Tripath Technology, Inc., et al.*, Civil Action No. 04 4681 (the “Goldberg Action”), *Marc Cherbonnier v. Tripath Technology, Inc., et al.*, Civil Action No. 04 4936 (the “Cherbonnier Action”), *Navtej S. Bhandari v. Tripath Technology, Inc., et al.*, Civil Action No. 04 4969 (the “Bhandari Action”), and *Frank Oravec v. Tripath Technology, Inc., et al.*, Civil Action No. 04 4976 (the “Oravec Action”) – were filed in this Court;

B. By Order dated December 22, 2004, the Court consolidated the *Goldberg* Action, the *Cherbonnier* Action, the *Bhandari* Action, and the *Oravec* Action under the caption *In re Tripath Technology, Inc. Securities Litigation*, Master File No. 04 4681 (SBA). The consolidated actions are hereinafter collectively referred to as the “Action”;

C. On January 28, 2005, the Court appointed Robert Poteet as Lead Plaintiff and approved the law firm of Milberg Weiss Bershad & Schulman LLP (“Milberg Weiss”) as Lead Counsel;

D. The complaints in the Action (the “Complaint”) generally allege, among other things, that Defendants issued materially false and misleading press releases and other statements with respect to Tripath’s financial results and its business, prospects and operations, including the Godzilla product, during the period between January 29, 2004 and October 22, 2004, inclusive, in a scheme to artificially inflate the value of Tripath’s securities. For settlement purposes, the Class Period shall be defined as the period between January 29, 2004 and June 13, 2005, inclusive;

1 E. The Complaint further alleges that Plaintiffs and other Class Members purchased the
2 securities of Tripath during the class period at prices artificially inflated as a result of the
3 Defendants' dissemination of materially false and misleading statements regarding Tripath in
4 violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5
5 promulgated thereunder;

6 F. The Defendants deny any wrongdoing whatsoever and this Stipulation shall in no
7 event be construed or deemed to be evidence of or an admission or concession on the part of any
8 Defendant with respect to any claim or of any fault or liability or wrongdoing or damage whatsoever,
9 or any infirmity in the defenses that the Defendants have asserted. The parties to this Stipulation
10 recognize, however, that the litigation has been filed by Plaintiffs and defended by the Defendants in
11 good faith and with adequate basis in fact under Rule 11 of the Federal Rules of Civil Procedure, that
12 the litigation is being voluntarily settled after consultation with counsel, and that the terms of the
13 settlement are fair, adequate and reasonable. This Stipulation shall not be construed or deemed to be
14 a concession by any Plaintiff of any infirmity in the claims asserted in the Action;

15 G. Lead Counsel have conducted an investigation relating to the claims and the
16 underlying events and transactions alleged in the Complaint. Lead Counsel have analyzed the
17 evidence adduced during its investigation and have researched the applicable law with respect to the
18 claims of Lead Plaintiff and the Class against the Defendants and the potential defenses thereto;

19 H. Lead Plaintiff, by its counsel, have conducted discussions and arm's length
20 negotiations with counsel for Defendants with respect to a compromise and settlement of the Action
21 with a view to settling the issues in dispute and achieving the best relief possible consistent with the
22 interests of the Class; and

23 I. Based upon their investigation as set forth above, Lead Counsel have concluded that
24 the terms and conditions of this Stipulation are fair, reasonable and adequate to Lead Plaintiff and
25 the Class, and in their best interests, and have agreed to settle the claims raised in the Action
26 pursuant to the terms and provisions of this Stipulation, after considering (a) the substantial benefits
27 that Lead Plaintiff and the members of the Class will receive from settlement of the Action, (b) the
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1 attendant risks of litigation, and (c) the desirability of permitting the Settlement to be consummated
2 as provided by the terms of this Stipulation.

3 NOW THEREFORE, without any admission or concession on the part of Lead Plaintiff of
4 any lack of merit of the Action whatsoever, and without any admission or concession of any liability
5 or wrongdoing or lack of merit in the defenses whatsoever by the Defendants, it is hereby
6 STIPULATED AND AGREED, by and among the parties to this Stipulation, through their
7 respective attorneys, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of
8 Civil Procedure, in consideration of the benefits flowing to the parties hereto from the Settlement,
9 that all Settled Claims (as defined below) as against the Released Parties (as defined below) and all
10 Settled Defendants' Claims (as defined below) shall be compromised, settled, released and dismissed
11 with prejudice, upon and subject to the following terms and conditions:

12 **CERTAIN DEFINITIONS**

13 1. As used in this Stipulation, the following terms shall have the following meanings:

14 (a) "Authorized Claimant" means a Class Member who submits a timely and
15 valid Proof of Claim form to the Claims Administrator.

16 (b) "Cash Settlement Amount" means the amount specified in paragraph 4(a)
17 hereof.

18 (c) "Claims Administrator" means the firm of Gilardi & Co. LLC which shall
19 administer the Settlement.

20 (d) "Class" means, for the purposes of this Settlement only, all persons who
21 purchased the securities of Tripath Technology Inc. during the Class Period, and who were damaged
22 thereby. Excluded from the Class are the Defendants, the officers and/or directors of Tripath, at all
23 relevant times, members of their immediate families (parents, spouses, siblings, and children), and
24 their legal representatives, heirs, successors or assigns, and any entity in which the Defendants have
25 or had a controlling interest. Also excluded from the Class are any putative Class Members who
26 exclude themselves by filing a request for exclusion in accordance with the requirements set forth in
27 the Notice. "Class Member" means a member of the Class.

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1 (e) "Class Period" means, for the purposes of this Settlement only, the period of
2 time between January 29, 2004 and June 13, 2005, inclusive.

3 (f) "Defendants" means Tripath and the Individual Defendants.

4 (g) "Defendants' Counsel" means the law firm of Howard Rice Nemerovski
5 Canady Falk & Rabkin, A Professional Corporation, on behalf of Tripath and Fenwick & West LLP
6 on behalf of Adya S. Tripathi and David P. Eichler.

7 (h) "Effective Date" means the date upon which the Settlement contemplated by
8 this Stipulation shall become effective, as set forth in ¶ 23 below.

9 (i) "Final," with respect to the Order and Final Judgment, means: (a) if no appeal
10 is filed, the expiration date of the time for filing or noticing of any appeal from the Court's Order
11 and Final Judgment approving the Stipulation substantially in the form of Exhibit B hereto, *i.e.*,
12 thirty (30) days after entry of the Order and Final Judgment; or (b) the date of final dismissal of any
13 appeal from the Order and Final Judgment, or the final dismissal of any proceeding on certiorari to
14 review the Order and Final Judgment; or (c) the date of final affirmance on an appeal of the Order
15 and Final Judgment, the expiration of the time to file a petition for a writ of certiorari, or the denial
16 of a writ of certiorari to review the Order and Final Judgment, and, if certiorari is granted, the date of
17 final affirmance of the Order and Final Judgment following review pursuant to that grant. Any
18 proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of
19 allocation and/or application for attorneys' fees, costs or expenses, shall not in any way delay or
20 preclude the Order and Final Judgment from becoming Final.

21 (j) "Gross Settlement Fund" means the Cash Settlement Amount, plus any
22 income or interest earned thereon, and the Settlement Shares.

23 (k) "Individual Defendants" means Adya S. Tripathi, David P. Eichler and
24 Graham K. Wright.

25 (l) "Lead Counsel" means the law firm of Milberg Weiss.

26 (m) "Net Settlement Fund" has the meaning defined in paragraph 5 hereof.

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1 (n) "Notice" means the Notice of Pendency of Class Action and Proposed
2 Settlement, Motion for Attorneys' Fees and Settlement Fairness Hearing, which is to be sent to
3 members of the Class substantially in the form attached hereto as Exhibit 1 to Exhibit A.

4 (o) "Order and Final Judgment" means the proposed order to be entered
5 approving the Settlement substantially in the form attached hereto as Exhibit B.

6 (p) "Order for Notice and Hearing" means the proposed order preliminarily
7 approving the Settlement and directing notice thereof to the Class substantially in the form attached
8 hereto as Exhibit A.

9 (q) "Plaintiffs' Counsel" means Lead Counsel and all other counsel representing
10 Class Members in the Action.

11 (r) "Publication Notice" means the summary notice of proposed Settlement and
12 hearing for publication substantially in the form attached as Exhibit 3 to Exhibit A.

13 (s) "Released Parties" means any and all of the Defendants, their past or present
14 subsidiaries, parents, successors and predecessors, officers, directors, agents, employees, controlling
15 shareholders, attorneys, advisors, investment advisors, auditors, accountants, assigns, spouses, any
16 member of an Individual Defendant's immediate family, or any trust which is for the benefit of any
17 Individual Defendant and/or member(s) of his immediate family and the legal representatives, heirs
18 or successors in interest of the Defendants, and any person, firm, trust, corporation, officer, director
19 or other individual or entity in which any Defendant has a controlling interest or which is related to
20 or affiliated with any of the Defendants.

21 (t) "Settled Claims" means any and all claims, debts, demands, rights or causes of
22 action or liabilities whatsoever (including, but not limited to, any claims for damages, interest,
23 attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever),
24 whether based on federal, state, local, statutory or common law or any other law, rule or regulation,
25 whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity,
26 matured or un-matured, whether class or individual in nature, including known claims and Unknown
27 claims (as defined below), arising out of, based upon or related in any way to the institution,
28 prosecution, or settlement of the Action (except for claims to enforce the Settlement), including: (i)

1 the allegations made in the Action by the Class Members or any of them against any of the Released
2 Parties; or (ii) the allegations that could have been made in any forum by the Class Members or any
3 of them against any of the Released Parties which arise out of or are based upon the allegations,
4 transactions, facts, matters or occurrences, representations or omissions, involved, set forth, or
5 referred to in the Complaint, or that involve events that occurred during the Class Period, and which
6 relate to the purchase or acquisition of Tripath securities during the Class Period.

7 (u) "Settled Defendants' Claims" means any and all claims, rights or causes of
8 action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or
9 any other law, rule or regulation, including both known claims and Unknown Claims, that have been
10 or could have been asserted in the Action or any forum by the Defendants or any of them or the
11 successors and assigns of any of them against the Lead Plaintiff or any of the Class Members, or
12 their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of
13 the Action (except for claims to enforce the Settlement). In so doing, the parties acknowledge that
14 Defendants expressly reserve and are not releasing any claims against any Class Members, or their
15 attorneys, which arise out of or relate to actions other than the Action, including but not limited to
16 *Langley Partners, L.P. v. Tripath Technology Inc. et al.*, Case No. 05 CV 5255 (S.D.N.Y.) or to
17 *Lyon v. Adya Tripathi et al.*, Case No. 104CV031905 (Santa Clara Superior Court).

18 (v) "Settlement" means the settlement contemplated by this Stipulation.

19 (w) "Settlement Shares" means the shares of Tripath common stock specified in
20 paragraph 4(b) hereof.

21 (x) "Unknown Claims" means any and all Settled Claims which Lead Plaintiff or
22 any Class Member does not know or suspect to exist in his, her or its favor at the time of the release
23 of the Released Parties, and any Settled Defendants' Claims which any Defendant does not know or
24 suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her
25 or its decision(s) with respect to the Settlement. With respect to any and all Settled Claims and
26 Settled Defendants' Claims, the parties stipulate and agree that upon the Effective Date, Lead
27 Plaintiff and the Defendants shall expressly waive, and each Class Member shall be deemed to have
28 waived, and by operation of the Order and Final Judgment shall have expressly waived, any and all

1 provisions, rights and benefits conferred by any law of any state or territory of the United States, or
2 principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code §1542,
3 which provides:

4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
5 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT
6 THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM
MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE
DEBTOR.

7 Lead Plaintiff and Defendants acknowledge, and Class Members by operation of law shall be
8 deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Settled
9 Claims and Settled Defendants’ Claims was separately bargained for and was a key element of the
10 Settlement.

11 **SCOPE AND EFFECT OF SETTLEMENT**

12 2. The obligations incurred pursuant to this Stipulation shall be in full and final
13 disposition of the Action and any and all Settled Claims as against all Released Parties and any and
14 all Settled Defendants’ Claims.

15 3. (a) Upon the Effective Date of this Settlement, Lead Plaintiff and members of the
16 Class on behalf of themselves, their heirs, executors, administrators, successors and assigns, shall,
17 with respect to each and every Settled Claim, release and forever discharge, and shall forever be
18 enjoined from prosecuting, any Settled Claims against any of the Released Parties.

19 (b) Upon the Effective Date of this Settlement, each of the Defendants, on behalf
20 of themselves and the Released Parties, shall release and forever discharge each and every of the
21 Settled Defendants’ Claims, and shall forever be enjoined from prosecuting the Settled Defendants’
22 Claims against Lead Plaintiff, all Class Members and their counsel.

23 **THE SETTLEMENT CONSIDERATION**

24 4. (a) Within ten (10) days from the date hereof, Defendants shall pay \$200,000 (the
25 “Cash Settlement Amount”) into escrow for the benefit of the Class.

26 (b) In addition, Defendants shall deliver 2,450,000 shares of Tripath common
27 stock (the “Settlement Shares”) for the benefit of the Class after the Court has approved the issuance
28 of such shares and has confirmed that the issuance of such shares shall be exempt from registration

1 pursuant to Section 3(a)(10) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(10) and upon the Lead
2 Counsel's instructions. The Settlement Shares shall be exempt from registration pursuant to Section
3 3(a)(10) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(10), and therefore freely tradable. In the
4 event that the Court shall fail to confirm that the issuance of the Settlement Shares shall be exempt
5 from registration pursuant to Section 3(a)(10) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(10)
6 for any reason, then, in the absence of an undertaking by Tripath to register, or cause the registration
7 of the Settlement Shares, on terms and conditions reasonably acceptable to the Plaintiffs, the
8 Plaintiffs shall have the right to terminate this Stipulation. The Defendants agree to issue and deliver
9 such shares after the Court has approved the issuance of such Settlement Shares on the terms
10 outlined in this paragraph and as instructed by Lead Counsel, which instructions may include a
11 proportionate distribution to all Authorized Claimants. Lead Counsel shall have the right to sell any
12 and all of such shares and to deposit the proceeds into the escrow fund for the benefit of the Class.
13 The Settlement Shares shall also be appropriately adjusted to account for any stock splits, reverse
14 stock splits, stock dividends, or the issuance of shares of Tripath common stock (other than the
15 Settlement Shares), options to purchase shares of Tripath common stock, or other securities
16 exercisable for the purchase of, or convertible into shares of Tripath common stock that have not
17 been authorized as of the date hereof to the extent that any such shares are issued or issuable for less
18 than their fair market value. As of the date hereof and until the Settlement Shares are actually
19 distributed, the Settlement Shares shall be treated the same as all other issued and outstanding shares
20 of Tripath common stock in the event of (i) any merger or sale of Tripath, or sale or distribution of
21 all or substantially all of Tripath's assets, or other extraordinary event affecting the capital structure
22 of Tripath or (ii) any dividend in cash or property by Tripath.

23 (c) The Cash Settlement Amount and any income or interest earned thereon, and
24 the 2,450,000 shares of Tripath common stock (or the proceeds of the sale of any or all of such
25 shares, if sold, and the interest and any dividends thereon) shall be the "Gross Settlement Fund."

26 5. (a) The Gross Settlement Fund, net of any Taxes (as defined below) on the
27 income thereof, shall be used to pay (i) the Notice and Administration Costs referred to in ¶ 7 hereof,
28 (ii) the attorneys' fee and expense award referred to in ¶ 8 hereof, and (iii) the remaining

1 administration expenses referred to in ¶ 9 hereof. The balance of the Gross Settlement Fund after the
2 above payments shall be the “Net Settlement Fund.” The Net Settlement Fund shall be distributed to
3 the Authorized Claimants as provided in ¶¶ 10-12 hereof. Any sums required to be held in escrow
4 hereunder prior to the Effective Date shall be held by Milberg Weiss as Escrow Agent for the Gross
5 Settlement Fund. All funds held by the Escrow Agent shall be deemed to be in the custody of the
6 Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be
7 distributed or returned to the persons paying the same pursuant to this Stipulation and/or further
8 order of the Court. The Escrow Agent shall invest any funds in excess of \$100,000 in short term
9 United States Agency or Treasury Securities (or a mutual fund invested solely in such instruments),
10 and shall collect and reinvest all interest accrued thereon. Any funds held in escrow in an amount of
11 less than \$100,000 may be held in a bank account insured by the FDIC. The parties hereto agree that
12 the Gross Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of
13 Treasury Regulation §1.468B-1 and that the Escrow Agent, as administrator of the Settlement Fund
14 within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be responsible for filing tax
15 returns for the Settlement Fund and paying from the Gross Settlement Fund any Taxes owed with
16 respect to the Gross Settlement Fund. The parties hereto agree that the Gross Settlement Fund shall
17 be treated as a Qualified Settlement Fund from the earliest date possible, and agree to any relation-
18 back election required to treat the Gross Settlement Fund as a Qualified Settlement Fund from the
19 earliest date possible. Counsel for Defendants agree to provide promptly to the Escrow Agent the
20 statement described in Treasury Regulation §1.468B-3(e).

21 (b) All (i) taxes on the income of the Gross Settlement Fund and (ii) expenses and
22 costs incurred in connection with the taxation of the Gross Settlement Fund (including, without
23 limitation, expenses of tax attorneys and accountants) (collectively “Taxes”) shall be paid out of the
24 Gross Settlement Fund, shall be considered to be a cost of administration of the settlement and shall
25 be timely paid by the Escrow Agent without prior Order of the Court.

26 **ADMINISTRATION**

27 6. The Claims Administrator shall administer the Settlement subject to the jurisdiction
28 of the Court. Except as stated in ¶ 14 hereof, Defendants shall have no responsibility for the

1 administration of the Settlement and shall have no liability to the Class in connection with such
2 administration. Defendants' Counsel shall cooperate in the administration of the Settlement to the
3 extent reasonably necessary to effectuate its terms, including providing without charge all
4 information from Tripath's transfer records concerning the identity of Class Members and their
5 transactions.

6 7. Lead Counsel may pay from the Cash Settlement Amount, without further approval
7 from the Defendants or the Court, the reasonable costs and expenses associated with identifying
8 members of the Class and effecting mail Notice and Publication Notice to the Class, and the
9 administration of the Settlement, including without limitation, the actual costs of publication,
10 printing and mailing the Notice, reimbursements to nominee owners for forwarding notice to their
11 beneficial owners, and the administrative expenses incurred and fees charged by the Claims
12 Administrator in connection with providing notice and processing the submitted claims.

13 **ATTORNEYS' FEES AND EXPENSES**

14 8. Lead Counsel will apply to the Court for an award from the Gross Settlement Fund of
15 attorneys' fees and reimbursement of expenses. Such amounts as are awarded by the Court shall be
16 payable from the Gross Settlement Fund to Lead Counsel immediately upon award, notwithstanding
17 the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral
18 attack on the settlement or any part thereof, subject to Lead Counsel's obligation to make
19 appropriate refunds or repayments to the Gross Settlement Fund plus accrued interest at the same net
20 rate as is earned by the Gross Settlement Fund, if and when, as a result of any appeal and/or further
21 proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed.

22 **ADMINISTRATION EXPENSES**

23 9. Plaintiffs' Counsel will apply to the Court, on notice to Defendants' Counsel, for an
24 order (the "Class Distribution Order") approving the Claims Administrator's administrative
25 determinations concerning the acceptance and rejection of the claims submitted herein and
26 approving any fees and expenses not previously applied for, including the fees and expenses of the
27 Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net
28 Settlement Fund to Authorized Claimants.

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DISTRIBUTION TO AUTHORIZED CLAIMANTS

10. The Claims Administrator shall determine each Authorized Claimant’s pro rata share of the Net Settlement Fund based upon each Authorized Claimant’s Recognized Claim (as defined in the Plan of Allocation described in the Notice annexed hereto as Exhibit 1 to Exhibit A, or in such other Plan of Allocation as the Court approves).

11. The Plan of Allocation proposed in the Notice is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular Plan of Allocation be approved.

12. Each Authorized Claimant shall be allocated a pro rata share of the Net Settlement Fund based on his or her Recognized Claim compared to the total Recognized Claims of all accepted claimants. This is not a claims-made settlement. The Defendants shall not be entitled to get back any of the settlement monies once the Settlement becomes final. The Defendants shall have no involvement in reviewing or challenging claims.

ADMINISTRATION OF THE SETTLEMENT

13. Any member of the Class who does not submit a valid Proof of Claim will not be entitled to receive any of the proceeds from the Net Settlement Fund but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims.

14. The Claims Administrator shall process the Proofs of Claim and, after entry of the Class Distribution Order, distribute the Net Settlement Fund to the Authorized Claimants. Except for their obligation to pay the Cash Settlement Amount, and to cooperate in the production of information with respect to the identification of Class Members from Tripath’s shareholder transfer records, as provided herein, and to issue the Settlement Shares in accordance with paragraph 4(b) herein, Defendants shall have no liability, obligation or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund. Lead Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive what Lead Counsel deem to be formal or technical defects in any Proofs of Claim submitted in the interests of achieving substantial justice.

1 15. For purposes of determining the extent, if any, to which a Class Member shall be
2 entitled to be treated as an “Authorized Claimant”, the following conditions shall apply:

3 (a) Each Class Member shall be required to submit a Proof of Claim (see attached
4 Exhibit 2 to Exhibit A), supported by such documents as are designated therein, including proof of
5 the transactions claimed and the losses incurred thereon, or such other documents or proof as the
6 Claims Administrator, in its discretion may deem acceptable;

7 (b) All Proofs of Claim must be submitted by the date specified in the Notice
8 unless such period is extended by Order of the Court. Any Class Member who fails to submit a
9 Proof of Claim by such date shall be forever barred from receiving any payment pursuant to this
10 Stipulation (unless, by Order of the Court, a later submitted Proof of Claim by such Class Member is
11 approved), but shall in all other respects be bound by all of the terms of this Stipulation and the
12 Settlement including the terms of the Order and Final Judgment to be entered in the Action and the
13 releases provided for herein, and will be barred from bringing any action against the Released Parties
14 concerning the Settled Claims. Provided that it is received before the motion for the Class
15 Distribution Order is filed, a Proof of Claim shall be deemed to have been submitted when posted, if
16 received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in
17 accordance with the instructions thereon. In all other cases, the Proof of Claim shall be deemed to
18 have been submitted when actually received by the Claims Administrator;

19 (c) Each Proof of Claim shall be submitted to and reviewed by the Claims
20 Administrator, who shall determine in accordance with this Stipulation and the approved Plan of
21 Allocation the extent, if any, to which each claim shall be allowed, subject to review by the Court
22 pursuant to subparagraph (e) below;

23 (d) Proofs of Claim that do not meet the submission requirements may be
24 rejected. Prior to rejection of a Proof of Claim, the Claims Administrator shall communicate with
25 the Claimant in order to remedy the curable deficiencies in the Proofs of Claim submitted. The
26 Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Proofs of
27 Claim they propose to reject in whole or in part, setting forth the reasons therefor, and shall indicate
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1 in such notice that the Claimant whose claim is to be rejected has the right to a review by the Court if
2 the Claimant so desires and complies with the requirements of subparagraph (e) below;

3 (e) If any Claimant whose claim has been rejected in whole or in part desires to
4 contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the
5 notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and
6 statement of reasons indicating the Claimant's grounds for contesting the rejection along with any
7 supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a
8 claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to
9 the Court; and

10 (f) The administrative determinations of the Claims Administrator accepting and
11 rejecting claims shall be presented to the Court, on notice to Defendants' Counsel, for approval by
12 the Court in the Class Distribution Order.

13 16. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with
14 respect to the Claimant's claim, and the claim will be subject to investigation and discovery under
15 the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited
16 to that Claimant's status as a Class Member and the validity and amount of the Claimant's claim.
17 No discovery shall be allowed on the merits of the Action or Settlement in connection with
18 processing of the Proofs of Claim.

19 17. Payment pursuant to this Stipulation shall be deemed final and conclusive against all
20 Class Members. All Class Members whose claims are not approved by the Court shall be barred
21 from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all
22 of the terms of this Stipulation and the Settlement, including the terms of the Order and Final
23 Judgment to be entered in the Action and the releases provided for herein, and will be barred from
24 bringing any action against the Released Parties concerning the Settled Claims.

25 18. All proceedings with respect to the administration, processing and determination of
26 claims described by ¶ 15 of this Stipulation and the determination of all controversies relating
27 thereto, including disputed questions of law and fact with respect to the validity of claims, shall be
28 subject to the jurisdiction of the Court.

1 19. The Net Settlement Fund shall be distributed to Authorized Claimants only after the
2 Effective Date and after: (i) all Claims have been processed, and all Claimants whose Claims have
3 been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to
4 be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or
5 disallowed claims have been resolved by the Court, and all appeals therefrom have been resolved or
6 the time therefor has expired; (iii) all matters with respect to attorneys' fees, costs, and
7 disbursements have been resolved by the Court, all appeals therefrom have been resolved or the time
8 therefor has expired; and (iv) all costs of administration have been paid.

9 **TERMS OF ORDER FOR NOTICE AND HEARING**

10 20. Concurrently with their application for preliminary Court approval of the Settlement
11 contemplated by this Stipulation, Plaintiffs' Counsel and Defendants' Counsel jointly shall apply to
12 the Court for entry of an Order for Notice and Hearing, substantially in the form annexed hereto as
13 Exhibit A.

14 **TERMS OF ORDER AND FINAL JUDGMENT**

15 21. If the Settlement contemplated by this Stipulation is approved by the Court, counsel
16 for the parties shall request that the Court enter an Order and Final Judgment substantially in the
17 form annexed hereto as Exhibit B.

18 **OPT-OUT TERMINATION RIGHT**

19 22. The Defendants may terminate this Settlement if potential Class Members who in
20 total tendered or exchanged in excess of five percent (5%) of the shares of Tripath common stock
21 purchased during the Class Period exclude themselves from the Class. In the event of a termination
22 by the Defendants, this Stipulation shall become null and void and of no further force and effect and
23 the provisions of ¶ 26 shall apply. If the Defendants elect to terminate this Settlement pursuant to
24 this paragraph written notice of such termination must be provided to Plaintiffs' Counsel on or
25 before seven (7) calendar days prior to the Settlement Fairness Hearing.

26 **EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION**

27 23. The "Effective Date" of Settlement shall be the date when all the following shall have
28 occurred:

1 (a) Approval by the Court of the Settlement, following notice to the Class and a
2 hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and

3 (b) Entry by the Court of an Order and Final Judgment, substantially in the form
4 set forth in Exhibit B annexed hereto, and the expiration of any time for appeal or review of such
5 Order and Final Judgment, or, if any appeal is filed and not dismissed, after such Order and Final
6 Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal
7 or review by writ of certiorari, or, in the event that the Court enters an order and final judgment in a
8 form other than that provided above (“Alternative Judgment”) and none of the parties hereto elect to
9 terminate this Settlement, the date that such Alternative Judgment becomes final and no longer
10 subject to appeal or review.

11 24. Defendants’ Counsel or Lead Counsel shall have the right to terminate the Settlement
12 and this Stipulation by providing written notice of their election to do so (“Termination Notice”) to
13 all other parties hereto within thirty (30) days of: (a) the Court’s declining to enter the Order for
14 Notice and Hearing in any material respect; (b) the Court’s refusal to approve this Stipulation or any
15 material part of it; (c) the Court’s declining to enter the Order and Final Judgment in any material
16 respect; (d) the date upon which the Order and Final Judgment is modified or reversed in any
17 material respect by the Court of Appeals or the Supreme Court; or (e) the date upon which an
18 Alternative Judgment is modified or reversed in any material respect by the Court of Appeals or the
19 Supreme Court. At any time prior to the Effective Date, Lead Counsel shall have the right to
20 terminate the Settlement and this Stipulation by providing written notice of their election to do so
21 within thirty (30) days of their being notified that Tripath Technology Inc. has been placed in
22 bankruptcy.

23 25. In the event that there is any non-delivery by Defendants of any of the shares required
24 to be delivered hereunder within fifteen (15) business days after Lead Counsel furnishes directions
25 for such delivery to Defendants’ Counsel, then Lead Counsel shall have the option to terminate this
26 Settlement unless such non-delivery is cured within ten (10) business days.

27 26. Except as otherwise provided herein, in the event the Settlement is terminated, then
28 the parties to this Stipulation shall be deemed to have reverted to their respective status in the Action

1 as of the date and time immediately prior to the execution of this Stipulation and, except as
2 otherwise expressly provided, the parties shall proceed in all respects as if this Stipulation and any
3 related orders had not been entered, and any portion of the Cash Settlement Amount previously paid
4 by Defendants, together with any interest earned thereon, less any Taxes due with respect to such
5 income, and less costs of administration and notice actually incurred and paid or payable from the
6 Cash Settlement Amount shall be returned to the persons paying the same.

7 **NO ADMISSION OF WRONGDOING**

8 27. This Stipulation, whether or not consummated, and any proceedings taken pursuant to
9 it:

10 (a) shall not be offered or received against the Defendants as evidence of or
11 construed as or deemed to be evidence of any presumption, concession, or admission by any of the
12 Defendants with respect to the truth of any fact alleged by any of the plaintiffs or the validity of any
13 claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of
14 any defense that has been or could have been asserted in the Action or in any litigation, or of any
15 liability, negligence, fault, or wrongdoing of the Defendants;

16 (b) shall not be offered or received against the Defendants as evidence of a
17 presumption, concession or admission of any fault, misrepresentation or omission with respect to any
18 statement or written document approved or made by any Defendant;

19 (c) shall not be offered or received against the Defendants as evidence of a
20 presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing,
21 or in any way referred to for any other reason as against any of the Defendants, in any other civil,
22 criminal or administrative action or proceeding, other than such proceedings as may be necessary to
23 effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved
24 by the Court, Defendants may refer to it to effectuate the liability protection granted them hereunder;

25 (d) shall not be construed against the Defendants as an admission or concession
26 that the consideration to be given hereunder represents the amount which could be or would have
27 been recovered after trial; and
28

1 (e) shall not be construed as or received in evidence as an admission, concession
2 or presumption against Lead Plaintiff or any of the Class Members that any of their claims are
3 without merit, or that any defenses asserted by the Defendants have any merit, or that damages
4 recoverable under the Complaint would not have exceeded the Gross Settlement Fund.

5 **MISCELLANEOUS PROVISIONS**

6 28. All of the exhibits attached hereto are hereby incorporated by reference as though
7 fully set forth herein.

8 29. Each Defendant contributing to the Cash Settlement Amount warrants as to himself,
9 herself or itself that, as to the payments made by or on behalf of him, her or it, at the time of such
10 payment that the Defendant made or caused to be made pursuant to ¶ 4 above, he, she or it was not
11 insolvent nor did nor will the payment required to be made by or on behalf of him, her or it render
12 such Defendant insolvent within the meaning of and/or for the purposes of the United States
13 Bankruptcy Code, including §§101 and 547 thereof. This warranty is made by each such Defendant
14 and not by such Defendant's Counsel.

15 30. If a case is commenced in respect of any Defendant contributing to the Cash
16 Settlement Amount under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or
17 conservator is appointed under any similar law, and in the event of the entry of a final order of a
18 court of competent jurisdiction determining the transfer of money to the Gross Settlement Fund or
19 any portion thereof by or on behalf of such Defendant to be a preference, voidable transfer,
20 fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such
21 amount is not promptly deposited to the Gross Settlement Fund by others, then, at the election of
22 Lead Counsel, the parties shall jointly move the Court to vacate and set aside the releases given and
23 Order and Final Judgment entered in favor of the Defendants pursuant to this Stipulation, which
24 releases and Order and Final Judgment shall be null and void, and the parties shall be restored to
25 their respective positions in the litigation as of the date a day prior to the date of this Stipulation and
26 any cash amounts in the Gross Settlement Fund shall be returned as provided in ¶ 26 above.

27 31. The parties to this Stipulation intend the Settlement to be a final and complete
28 resolution of all disputes asserted or which could be asserted by the Class Members against the

1 Released Parties with respect to the Settled Claims. Accordingly, Lead Plaintiff and Defendants
2 agree not to assert in any forum that the litigation was brought by Plaintiffs or defended by
3 Defendants in bad faith or without a reasonable basis. The parties hereto shall assert no claims of
4 any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense,
5 or settlement of the Action. The parties agree that the amount paid and the other terms of the
6 Settlement were negotiated at arm's length in good faith by the parties, and reflect a settlement that
7 was reached voluntarily after consultation with experienced legal counsel.

8 32. This Stipulation may not be modified or amended, nor may any of its provisions be
9 waived except by a writing signed by all parties hereto or their successors-in-interest.

10 33. The headings herein are used for the purpose of convenience only and are not meant
11 to have legal effect.

12 34. The administration and consummation of the Settlement as embodied in this
13 Stipulation shall be under the authority of the Court and the Court shall retain jurisdiction for the
14 purpose of entering orders providing for awards of attorneys' fees and expenses to Plaintiffs'
15 Counsel and enforcing the terms of this Stipulation.

16 35. The waiver by one party of any breach of this Stipulation by any other party shall not
17 be deemed a waiver of any other prior or subsequent breach of this Stipulation.

18 36. This Stipulation and its exhibits constitute the entire agreement among the parties
19 hereto concerning the Settlement of the Action, and no representations, warranties, or inducements
20 have been made by any party hereto concerning this Stipulation and its exhibits other than those
21 contained and memorialized in such documents.

22 37. This Stipulation may be executed in one or more counterparts. All executed
23 counterparts and each of them shall be deemed to be one and the same instrument provided that
24 counsel for the parties to this Stipulation shall exchange among themselves original signed
25 counterparts.

26 38. This Stipulation shall be binding upon, and inure to the benefit of, the successors and
27 assigns of the parties hereto.

28

1 39. The construction, interpretation, operation, effect and validity of this Stipulation, and
2 all documents necessary to effectuate it, shall be governed by the internal laws of the State of
3 California without regard to conflicts of laws, except to the extent that federal law requires that
4 federal law governs.

5 40. This Stipulation shall not be construed more strictly against one party than another
6 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of
7 the parties, it being recognized that it is the result of arm's-length negotiations between the parties
8 and all parties have contributed substantially and materially to the preparation of this Stipulation.

9 41. All counsel and any other person executing this Stipulation and any of the exhibits
10 hereto, or any related settlement documents, warrant and represent that they have the full authority to
11 do so and that they have the authority to take appropriate action required or permitted to be taken
12 pursuant to the Stipulation to effectuate its terms.

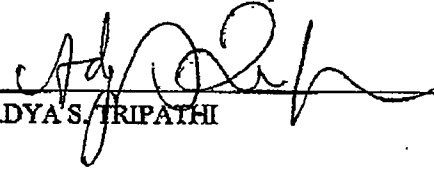
13 42. Lead Counsel, Defendants and Defendants' Counsel agree to cooperate fully with one
14 another in seeking Court approval of the Order for Notice and Hearing, the Stipulation and the
15 Settlement, and to promptly agree upon and execute all such other documentation as may be
16 reasonably required to obtain final approval by the District Court of the Settlement.

17 DATED: July 11, 2005

TRIPATH TECHNOLOGY INC.

18
19 By: 

20 Its: Vice President / CFO

21
22 
23 ADYA S. TRIPATHI

24
25 _____
26 DAVID P. EICHLER

27
28 _____
GRAHAM K. WRIGHT

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16 reasonably required to obtain final approval by the District Court of the Settlement.

17 DATED: July 11, 2005

TRIPATH TECHNOLOGY INC.

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19 By: _____

20 Its: _____

21
22 _____
23 ADYA S. TRIPATHI

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25 _____
26 DAVID P. EICHLER

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28 GRAHAM K. WRIGHT

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**Counsel for Defendants Adya S. Tripathi
and David P. Eichler**

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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a resident of the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 355 South Grand Avenue, Suite 4170, Los Angeles, California 90071.

2. That on July 12, 2005, declarant served STIPULATION AND AGREEMENT OF SETTLEMENT by depositing a true copy thereof in a United States mailbox at Los Angeles, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

4. That on the above date, declarant served via email to: jcarlos@law.stanford.edu.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of July, 2005, at Los Angeles, California.


FAITH FARINA

1 **TRIPATH TECHNOLOGY INC.**
2 04-CV-4681 (N.D. Cal.)
3 **Service List**

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6 Elizabeth P. Lin
7 **MILBERG WEISS BERSHAD**
8 **& SCHULMAN LLP**
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12 Facsimile: (213) 617-1975

13 ***Counsel for Defendants***

14 Gilbert R. Serota
15 Clara J. Shin
16 Sarah A. Good
17 **HOWARD RICE NEMEROVSKI CANADY FALK**
18 **& RABKIN**
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