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

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2006

OR

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

For the transition period from to

Commission file number 0-22613

AVI BIOPHARMA, INC.
(Exact name of registrant as specified in its charter)

Oregon	**93-0797222**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
One SW Columbia Street, Suite 1105, Portland, Oregon	**97258**
(Address of principal executive offices)	(Zip Code)

Issuer's telephone number, including area code: **503-227-0554**

Indicate by check mark whether the issuer (1) filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Securities Exchange Act of 1934 (Check one):

Large accelerated filer o Accelerated filer ☒ Non-accelerated filer o.

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2).

Yes o No ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock with $.0001 par value	**52,930,651**
(Class)	(Outstanding at May 5, 2006)

AVI BIOPHARMA, INC.
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AVI BIOPHARMA, INC.
(A Development Stage Company)
BALANCE SHEETS
(unaudited)

	March 31, 2006	December 31, 2005
Assets		
Current Assets:		
Cash and cash equivalents	$ 36,867,301	$ 34,597,734
Short-term securities–available-for-sale	12,579,208	12,453,348
Accounts receivable	840,153	1,236,446
Other current assets	480,547	365,866
Total Current Assets	50,767,209	48,653,394
Property and Equipment, net of accumulated depreciation and amortization of $8,826,044 and $8,396,923	5,153,921	5,599,269
Patent Costs, net of accumulated amortization of $1,320,381 and $1,270,881	2,163,209	2,117,710
Other Assets	34,709	37,609
Total Assets	$ 58,119,048	$ 56,407,982
Liabilities and Shareholders' Equity		
Current Liabilities:		
Accounts payable	$ 1,250,512	$ 1,861,604
Accrued employee compensation	721,388	886,369
Other liabilities	237,904	—
Total Current Liabilities	2,209,804	2,747,973
Commitments and Contingencies		
Shareholders' Equity:		
Preferred stock, $.0001 par value, 20,000,000 shares authorized; none issued and outstanding	—	—
Common stock, $.0001 par value, 200,000,000 shares authorized; 52,925,682 and 51,182,751 issued and outstanding	5,293	5,118
Additional paid-in capital	237,598,487	226,290,167

Accumulated other comprehensive income	14,858	12,968
Deficit accumulated during the development stage	(181,709,394)	(172,648,244)
Total Shareholders' Equity	55,909,244	53,660,009
Total Liabilities and Shareholders' Equity	$ 58,119,048	$ 56,407,982

See accompanying notes to financial statements.

AVI BIOPHARMA, INC.
(A Development Stage Company)
STATEMENTS OF OPERATIONS
(unaudited)

	Three months ended March 31, 2006	Three months ended March 31, 2005	July 22, 1980 (Inception) to March 31, 2006
Revenues from license fees, grants and research contracts	$ 65,962	$ 45,192	$ 9,931,490
Operating expenses:			
Research and development	6,763,245	4,141,904	129,064,872
General and administrative	2,821,726	1,448,530	35,889,502
Acquired in-process research and development	—	—	19,545,028
	9,584,971	5,590,434	184,499,402
Other income (loss):			
Interest income, net	457,859	46,063	5,997,364
Realized gain on sale of short-term securities— available-for-sale	—	—	3,862,502
Write-down of short-term securities— available-for-sale	—	—	(17,001,348)
	457,859	46,063	(7,141,482)
Net loss	$ (9,061,150)	$ (5,499,179)	$ (181,709,394)
Net loss per share - basic and diluted	$ (0.18)	$ (0.13)	
Weighted average number of common shares outstanding for computing basic and diluted loss per share	51,715,050	42,455,512	

See accompanying notes to financial statements.

AVI BIOPHARMA, INC.
(A Development Stage Company)
STATEMENTS OF CASH FLOWS
(unaudited)

	Three months ended March 31, 2006	Three months ended March 31, 2005	For the Period July 22, 1980 (Inception) to March 31, 2006
Cash flows from operating activities:			
Net loss	$ (9,061,150)	$ (5,499,179)	$ (181,709,394)
Adjustments to reconcile net loss to net cash flows used in operating activities:			
Depreciation and amortization	525,141	484,038	11,255,005
Loss on disposal of assets	164,253	1,028	287,062
Realized gain on sale of short-term securities—available-for-sale	—	—	(3,862,502)
Write-down of short-term securities—available-for-sale	—	—	17,001,348
Issuance of common stock to vendors	700,000	—	700,000
Compensation expense on issuance of common stock and partnership units	—	—	861,655
Compensation expense to non-employees on issuance of options and warrants to purchase common stock or partnership units	525,126	206,329	2,643,053
Stock-based compensation	1,937,271		1,937,271
Conversion of interest accrued to common stock	—	—	7,860
Acquired in-process research and development	—	—	19,545,028
(Increase) decrease in:			
Accounts receivable and other current assets	281,612	399,958	(1,320,700)
Other assets	2,900	—	(34,709)
Net increase (decrease) in accounts payable, accrued employee compensation, and other liabilities	(363,169)	28,316	2,504,804
Net cash used in operating activities	(5,288,016)	(4,379,510)	(130,184,219)

Cash flows from investing activities:			
Purchase of property and equipment	(194,546)	(267,200)	(14,725,775)
Patent costs	(94,999)	(121,230)	(3,883,422)
Purchase of marketable securities	(1,026,087)	(3,187,858)	(98,921,957)
Sale of marketable securities	902,117	3,346,336	91,266,761
Acquisition costs	—	—	(2,377,616)
Net cash used in investing activities	(413,515)	(229,952)	(28,642,009)
Cash flows from financing activities:			
Proceeds from sale of common stock, warrants, and partnership units, net of offering costs, and exercise of options and warrants	7,971,098	22,311,475	196,078,966
Buyback of common stock pursuant to rescission offering	—	—	(288,795)
Withdrawal of partnership net assets	—	—	(176,642)
Issuance of convertible debt	—	—	80,000
Net cash provided by financing activities	7,971,098	22,311,475	195,693,529
Increase in cash and cash equivalents	2,269,567	17,702,013	36,867,301
Cash and cash equivalents:			
Beginning of period	34,597,734	16,654,829	—
End of period	$ 36,867,301	$ 34,356,842	$ 36,867,301
SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING ACTIVITIES AND FINANCING ACTIVITIES:			
Short-term securities—available-for-sale received in connection with the private offering	$ —	$ —	$ 17,897,000
Change in unrealized gain on short-term securities—available-for-sale	$ 1,890	$ 132,641	$ 14,858
Issuance of common stock and warrants for services	$ 175,000	$ —	$ 545,000

See accompanying notes to financial statements.

AVI BIOPHARMA, INC.
NOTES TO FINANCIAL STATEMENTS
(Unaudited)

Note 1. Basis of Presentation

The financial information included herein for the three-month period ended March 31, 2006 and 2005 and the financial information as of March 31, 2006 is unaudited; however, such information reflects all adjustments consisting only of normal recurring adjustments, which, in the opinion of management, are necessary for a fair presentation of the financial position, results of operations and cash flows for the interim periods. The financial information as of December 31, 2005 is derived from AVI BioPharma, Inc.'s (the "Company's") Form 10-K. The interim financial statements should be read in conjunction with the financial statements and the notes thereto included in the Company's Form 10-K. The results of operations for the interim periods presented are not necessarily indicative of the results to be expected for the full year.

The Company has two stock-based compensation plans, the 2002 Equity Incentive Plan and the 2000 Employee Stock Purchase Plan, which are described below. Prior to fiscal year 2006, the Company accounted for those plans under the recognition and measurement provisions of Accounting Principles Board (APB) Opinion 25, "Accounting for Stock Issued to Employees", and related Interpretations, as permitted by Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Standard ("SFAS") No. 123, "Accounting for Stock-Based Compensation", ("SFAS 123"). Compensation costs related to stock options granted at fair value under those plans were not recognized in the statements of operations.

In December of 2004, FASB issued SFAS 123 (revised 2004), "Share-Based Payment", (SFAS 123R"). Under the new standard, companies are no longer to account for share-based compensation transactions using the intrinsic value method in accordance with APB Opinion No. 25. Instead, companies are required to account for such transaction using a fair-value method and recognize the expense in the statements of operations.

Effective January 1, 2006, the Company adopted SFAS 123R using the modified-prospective application. Under the modified prospective application, stock compensation cost recognized beginning January 1, 2006 includes: (a) compensation cost for all share-based payments granted prior to, but not yet vested as of January 1, 2006, based on the grant date fair value estimated in accordance with the original provisions of SFAS 123, and (b) compensation cost for all share-based payments granted on or subsequent to January 1, 2006, based on the grant date fair value estimated in accordance with the provisions of SFAS 123R. Results for prior periods have not been restated.

The Company's net loss for the three months ended March 31, 2006 was increased by approximately $1.1 million as a result of the application of SFAS 123R.

Stock-based compensation costs are generally based on the fair value calculated from the Black-Scholes option-pricing model on the date of grant for stock options and on the date of enrollment for the Plan. The fair value of stock grants are amortized as compensation

expense on a straight-line basis over the vesting period of the grants. Compensation expense recognized is shown in the operating activities section of the statements of cash flows. Stock options granted to employees are service-based and typically vest over four years.

The fair market values of stock options granted during the periods presented were measured on the date of grant using the Black-Scholes option-pricing model, with the following weighted average assumptions:

Three Months Ended March 31,	2006	2005
Risk-free interest rate	4.07%	3.43%
Expected dividend yield	0%	0%
Expected lives	9.3 years	9.1 years
Expected volatility	91%	94%

As part of the requirements of FSAS 123R, the Company is required to estimate potential forfeiture of stock grants and adjust compensation cost recorded accordingly. The estimate of forfeitures will be adjusted over the requisite service period to the extent that actual forfeitures differ, or are expected to differ, from such estimates. Changes in estimated forfeitures will be recognized through a cumulative catch-up in the period of change and will also impact the amount of stock compensation expense to be recognized in future periods.

A summary of the Company's stock option compensation activity with respect to the fiscal quarter ended March 31, 2006 follows:

Stock Options	Shares	Weighted Average Exercisable Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding at January 1, 2006	4,812,396	$ 4.55		
Granted	1,089,700	$ 7.32		
Exercised	(195,714)	$ 3.44		
Canceled or expired	(420)	$ 8.10		
Outstanding at March 31, 2006	5,705,962	$ 5.12	6.14	$ 9,685,836
Vested at March 31, 2006 and expected to vest	5,665,886	$ 5.12	6.14	$ 9,615,456
Exercisable at March 31, 2006	3,702,158	$ 5.15	4.62	$ 6,166,823

The weighted average fair value per share of stock-based payments granted to employees during the three months ended March 31, 2006 and March 31, 2005 was $6.25 and $2.13, respectively. During the same periods, the total intrinsic value of stock options exercised were $729,959 and $1,212, and the total fair value of stock options that vested were $1,103,771 and $463,041, respectively.

As of March 31, 2006, there was $7,808,842 of total unrecognized compensation cost related to nonvested share-based compensation arrangements granted under the Plan. These costs are expected to be recognized over a weighted-average period of 2.8 years.

During the first quarter of fiscal 2006, $672,958 was received for the exercise of stock

options. The Company is obligated to issue shares from the 2002 Equity Incentive Plan reserve upon the exercise of stock options. The Company does not currently expect to repurchase shares from any source to satisfy its obligations under the Plan.

The following are the stock-based compensation costs recognized in the Company's statements of operations:

	Three Months Ended March 31, 2006
Research and development	$ 539,497
General and administrative	$ 564,274
Total	$ 1,103,771

As discussed above, results for prior periods have not been restated to reflect the effects of implementing SFAS 123R. The following table illustrates the effect on net loss and loss per share for the three months ended March 31, 2006 as compared to the pro forma financial results for the three months ended March 31, 2005, adjusted for stock-based compensation:

Three Months Ended March 31,	2006	2005
Net loss, excluding the effect of stock-based compensation	$ (7,957,379)	$ (5,499,179)
Deduct – Total stock-based employee compensation expense determined under fair value based methods for all awards	(1,103,771)	(463,041)
Net loss, including the effect of stock-based compensation	$ (9,061,150)	$ (5,962,220)
Basic and diluted net loss per share:		
Excluding the effect of stock-based compensation	$ (0.15)	$ (0.13)
Including the effect of stock-based compensation	$ (0.18)	$ (0.14)

The 2000 Employee Stock Purchase Plan (ESPP) provides that eligible employees may contribute, through payroll, deductions, up to 10% of their earnings toward the purchase of the Company's Common Stock at 85% of the fair market value at specific dates. On January 1, 2006, the Company adopted SFAS 123R, which requires the measurement and recognition of compensation expense for all share based payment awards made to the Company's employees and directors related to the Employee Stock Purchase Plan, based on estimated fair values. During the first quarter of 2006 the total compensation expense for participants in the ESPP was $15,118 using the Black-Scholes option-pricing model with a weighted average estimated fair value per share of $1.07, expected life of six months, risk free interest rate of 3.5%, volatility of 73.21%, and no dividend yield. At March 31, 2006, 39,807 shares remain available for purchase through the plan and there were 96 employees eligible to participate in the plan, of which 28 were participants.

On March 15, 2006 unvested stock options for nine employees in the Company's Colorado facility were accelerated. These employees joined Cook Group Inc. in April 2006, see note 5. The acceleration of these stock options in the first quarter of 2006 increased compensation costs by $833,500.

During the first quarter of 2006 the total compensation expense for stock-based

compensation upon adoption of SFAS 123R and for acceleration of the vesting of certain stock options was $1,937,271.

The Company records the fair value of stock options granted to non-employees in exchange for services in accordance with EITF 96-18 "*Accounting for Equity Instruments That are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*." The fair value of the options granted are expensed when the measurement date is known. The performance for services was satisfied on the grant date for stock options granted to non-employees. The total fair value of the options granted to non-employees during the three months ended March 31, 2006 and March 31, 2005 was $525,126 and $206,329 which was expensed to research and development, respectively.

Note 2. Liquidity

The Company is in the development stage. Since its inception in 1980 through March 31, 2006, the Company has incurred losses of approximately $182 million, substantially all of which resulted from expenditures related to research and development, general and administrative expenses, non-cash write-downs in 2002 of $4,478,260 and in 2001 of $12,523,088 on short-term securities—available-for-sale that had an other than temporary impairment as defined by SEC accounting rules and a one-time charge of $19,545,028 for acquired in-process research and development reflecting the acquisition of ImmunoTherapy Corporation. The Company has not generated any material revenue from product sales to date, and there can be no assurance that revenues from product sales will be achieved. Moreover, even if the Company does achieve revenues from product sales, the Company expects to incur operating losses over the next several years.

The financial statements have been prepared assuming that the Company will continue as a going concern. The Company's ability to achieve a profitable level of operations in the future will depend in large part on completing product development of its antisense products, obtaining regulatory approvals for such products, and bringing these products to market. During the period required to develop these products, the Company will require substantial additional financing. There is no assurance that such financing will be available when needed or that the Company's planned products will be commercially successful. On March 13, 2006, the Company announced that it had entered into agreements with Cook Group Inc. (Cook) for Cook's development and commercialization of products for vascular and cardiovascular diseases. Under a stock purchase agreement with Cook, the Company received net proceeds of $4,955,723. The Company sold 692,003 shares of common stock at $7.23 per share to Cook, as described in Note 5. The Company believes it has sufficient cash to fund operations through 2006. For 2006, the Company expects expenditures for operations, including collaborative efforts and GMP facilities to be approximately $22 to $25 million. Expenditures for 2006 could increase if the Company undertakes additional collaborative efforts. If necessary, however, the Company's management has the ability to significantly curtail certain expenditures because a significant amount of the Company's costs are variable.

In January 2006, the Company announced that the final version of the 2006 defense appropriations act had been approved, which included an allocation of $11 million to fund the Company's ongoing defense-related programs. The Company's NEUGENE® technology is being used to develop therapeutic agents against Ebola, Marburg and dengue viruses, as

well as to develop countermeasures for anthrax exposure and antidotes for ricin toxin. This additional funding for 2006 has not been received and has not been reflected in the financial statements.

The likelihood of the long-term success of the Company must be considered in light of the expenses, difficulties and delays frequently encountered in the development and commercialization of new pharmaceutical products, competitive factors in the marketplace as well as the burdensome regulatory environment in which the Company operates. There can be no assurance that the Company will ever achieve significant revenues or profitable operations.

Note 3. Earnings Per Share

Basic EPS is calculated using the weighted average number of common shares outstanding for the period and diluted EPS is computed using the weighted average number of common shares and dilutive common equivalent shares outstanding. Given that the Company is in a loss position, there is no difference between basic EPS and diluted EPS since the common stock equivalents would be antidilutive.

Three Months Ended March 31,	2006	2005
Net loss	$ (9,061,150)	$ (5,499,179)
Weighted average number of shares of common stock and common stock equivalents outstanding:		
Weighted average number of common shares Outstanding for computing basic earnings per share	51,715,050	42,455,512
Dilutive effect of warrants and stock options after application of the treasury stock method	*	*
Weighted average number of common shares outstanding for computing diluted earnings per share	51,715,050	42,455,512
Net loss per share - basic and diluted	$ (0.18)	$ (0.13)

* Warrants and stock options to purchase 17,214,065 and 16,950,059 shares of common stock as of March 31, 2006 and 2005, respectively, were excluded from the earnings per share calculation as their effect would have been antidilutive.

Note 4. Comprehensive Income and securities available for sale

Comprehensive income (loss) includes charges or credits to equity that did not result from transactions with shareholders. The Company's only component of "other comprehensive income (loss)" is unrealized gain (loss) on cash equivalents and short-term securities—available-for-sale. Accordingly, such investment securities are stated on the balance sheet at their fair market value. The Company classifies its investment securities with an original maturity of three months

or less from the date of purchase as cash equivalents. The Company classifies its investment securities with an original maturity of more than three months from the date of purchase as short-term securities—available-for-sale. At March 31, 2006 and December 31, 2005, the Company's investments in marketable securities had gross unrealized gains of $14,858 and $12,968, respectively. The unrealized difference between the adjusted cost and the fair market value of these securities has been reflected as a separate component of shareholders' equity. The following table sets forth the calculation of comprehensive income for the periods indicated:

	Three Months Ended March 31,	
	2006	2005
Net loss	$ (9,061,150)	$ (5,499,179)
Unrealized gain on marketable securities	1,890	132,641
Total comprehensive loss	$ (9,059,260)	$ (5,366,538)

Note 5. Equity Financing

On March 13, 2006, the Company announced that it had entered into agreements with Cook Group Inc. (Cook) for Cook's development and commercialization of products for vascular and cardiovascular diseases. There may be future royalty and milestone payments from Cook based on the License and Development Agreement. Under a stock purchase agreement with Cook, the Company received net proceeds of $4,955,723. The Company sold 692,003 shares of common stock at $7.23 per share to Cook.

During the three months ended March 31, 2006, the Company issued 900,762 shares of common stock for proceeds of $3,015,375 from the exercise of stock options and warrants.

Note 6. Significant Agreements

On January 27, 2006, the Company announced that it had entered into a definitive License Agreement with Chiron Corporation ("Chiron") granting the Company a nonexclusive license to Chiron's patents and patent applications for the research, development, and commercialization of antisense therapeutics against hepatitis C virus, in exchange for the payment of certain milestone and royalty payments to Chiron. In lieu of the first milestone payment due under the License Agreement, the Company and Chiron also entered into a separate agreement under which the Company issued to Chiron 89,012 shares of the Company's common stock with a market value of $500,000 and was expensed to research and development. There may be future payments made to Chiron by the Company based on milestones in the License Agreement.

On March 13, 2006, the Company announced that it had entered into agreements with Cook Group Inc. (Cook) for Cook's development and commercialization of products for vascular and cardiovascular diseases. See note 5.

Effective January 1, 2006, the Company extended the lease on its facility located at 4575 SW Research Way, Suite 200, Corvallis, OR 97333. This lease now expires on December 31, 2020. As of December 31, 2005, the Company had an accrued rent payable of $615,163 related to back rent payments. During the first quarter of 2006 the Company issued 31,154 shares of the Company's common stock with a market value of $175,000, paid cash of $315,163, and sold fixed assets with a value of $25,000 to Research Way Investments. As of March 31, 2006, the Company had an accrued rent payable of $100,000 related to back rent payments.

In January 2006, the Company issued 30,000 shares of the Company's common stock with a market value of $200,000 to the Oregon State University Foundation to have access to certain university research facilities which was expensed to research and development.

Item 2. Management's Discussion and Analysis or Plan of Operations

This section should be read in conjunction with the same titled section contained in our Annual Report on Form 10-K as filed with the SEC for the year ended December 31, 2005 and the "Risk Factors" contained in such report.

Forward-Looking Information

The Financial Statements and Notes thereto should be read in conjunction with the following discussion. The discussion in this Form 10-Q contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Exchange Act. Forward looking statements are identified by such words as "believe," "expect," "anticipate" and words of similar import. All statements other than historical or current facts, including, without limitation, statements about our business strategy, plans and objectives of management and our future prospects, are forward-looking statements. Such forward-looking statements involve risks and uncertainties, including, but not limited to, the results of research and development efforts, the success of raising funds in the current offering or future offerings under our current shelf registration, the results of pre-clinical and clinical testing, the effect of regulation by FDA and other agencies, the impact of competitive products, product development, commercialization and technological difficulties, and other risks detailed in the Company's Securities and Exchange Commission filings, that could cause actual results to differ materially from the expected results reflected in such forward looking statements.

Overview

From our inception in 1980, we have devoted our resources primarily to fund our research and development efforts. We have been unprofitable since inception and, other than limited interest, license fees, grants and research contracts, we have had no material revenues from the sale of products or other sources, other than from government grants and research contracts, and we do not expect material revenues for the foreseeable future. We expect to continue to incur losses for the foreseeable future as we continue to expand our research and development efforts and enter additional collaborative efforts. As of March 31, 2006, the Company's accumulated deficit was $181,709,394.

Results of Operations

Revenues, from license fees, grants and research contracts, increased to $65,962 in the first quarter of 2006 from $45,192 in the comparable period in 2005, due to increases in grant revenues.

Operating expenses increased to $9,584,971 in the first quarter of 2006 from $5,590,434 in the first quarter of 2005 due to increases in research and development, which increased to $6,763,245 in 2006 from $4,141,904 in the comparable period in 2005. This research and development increase was due primarily to increases in employee costs of approximately $1,100,000, of which approximately $540,000 was upon adoption of SFAS 123R and approximately $430,000 related to the acceleration of the vesting of certain stock options. This research and development increase was also due to $500,000 in AVI common stock issued to Chiron Corporation as the first milestone payment due under a license agreement granting AVI a nonexclusive license to Chiron's patents and patent applications for the research, development, and commercialization of antisense therapeutics against hepatitis C virus and approximately $400,000 was due to contracting costs for the production of GMP subunits, which are used by the Company to manufacture compounds for future clinical trials. The remaining research and development increase was due primarily to increases in clinical trial expenses of approximately $200,000 and professional consultant costs of approximately $320,000. Additionally, general and administrative costs increased to $2,821,726 in the first quarter of 2006 from $1,448,530 in the first quarter of 2005. This general and administrative increase was due primarily to increases in employee costs of approximately $1,200,000, of which approximately $510,000 was upon adoption of SFAS 123R and approximately $400,000 related to the acceleration of the vesting of certain stock options. The remaining general and administrative increase was due primarily to increases in accounting costs of approximately $50,000 and legal costs of approximately $30,000. Net interest income increased to $457,859 in the first quarter of 2006 from $46,063 in the first quarter of 2005 due to increases in average cash, cash equivalents and short-term securities and increases in average interest rates of the Company's interest earning investments.

Liquidity and Capital Resources

The Company does not expect any material revenues in 2006 or 2007 from its business activities other than from potential government grants and research contracts. The Company expects that its cash requirements through 2006 will be satisfied by existing cash resources. To fund its operations beyond 2006, the Company will need to secure additional funds. Such funds could come from technology license fees, government grants and research contracts, and accessing capital markets.

In January 2006, the Company announced that the final version of the 2006 defense appropriations act had been approved, which included an allocation of $11 million to fund the Company's ongoing defense-related programs. The Company's NEUGENE® technology is being used to develop therapeutic agents against Ebola, Marburg and dengue viruses, as well as to develop countermeasures for anthrax exposure and antidotes for ricin toxin. This additional funding for 2006 has not been received and has not been reflected in the financial

statements

The Company's cash, cash equivalents and short-term securities were $49,446,509 at March 31, 2006, compared with $47,051,082 at December 31, 2005. The increase of $2,395,427 was due primarily to the receipt of $4,955,723 in net proceeds from a stock purchase agreement with Cook Group Inc. and $3,015,375 from the exercise of warrants and options during the first quarter of 2006, offset by $5,288,016 used in operations and $289,545 used for purchases of property and equipment and patent related costs. The Company sold 692,003 shares of common stock at $7.23 per share to Cook, as described in Note 5.

The Company's short-term securities include certificates of deposit, commercial paper and other highly liquid investments with original maturities in excess of 90 days at the time of purchase and less than one year from the balance sheet date. The Company classifies its investment securities as available-for-sale and, accordingly, such investment securities are stated on the balance sheet at their fair market value with unrealized gains (losses) recorded as a separate component of shareholders' equity and comprehensive income (loss).

The Company's future expenditures and capital requirements depend on numerous factors, most of which are difficult to project beyond the short term, including without limitation, the progress of its research and development programs, the progress of its pre-clinical and clinical trials, the time and costs involved in obtaining regulatory approvals, the cost of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights, competing technological and market developments, its ability to establish collaborative arrangements and the terms of any such arrangements, and the costs associated with commercialization of its products. The Company's cash requirements are expected to continue to increase each year as the Company expands its activities and operations. There can be no assurance, however, that the Company will ever be able to generate product revenues or achieve or sustain profitability.

The Company expects to continue to incur losses as it expands its research and development activities and related regulatory work and increases its collaborative efforts. For 2006, the Company expects expenditures for operations, including collaborative efforts and GMP facilities to be approximately $22 to $25 million. Expenditures for 2006 could increase if the Company undertakes additional collaborative efforts. If necessary, however, the Company's management has the ability to significantly curtail certain expenditures because a significant amount of the Company's costs are variable.

Critical Accounting Policies and Estimates

The discussion and analysis of the Company's financial condition and results of operations are based upon its financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires the Company to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses and related disclosure of contingent assets and liabilities. The Company's critical accounting policies and estimates are consistent with the disclosure in the Company's Form 10-K.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

There has been no material change in the Company's market risk exposure since the filing of our 2005 Annual Report on Form 10-K.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

As of March 31, 2006, the Company carried out an evaluation, under the supervision and with the participation of its management, including its Chief Executive Officer, its President and its Chief Financial Officer, of the effectiveness of the design and operation of its disclosure controls and procedures pursuant to Rule 13a-15(e) under the Securities Exchange Act of 1934. Based on this review of its disclosure controls and procedures, the Chief Executive Officer, the President and the Chief Financial Officer have concluded that its disclosure controls and procedures are effective in timely alerting them to material information relating to the Company that is required to be included in our periodic SEC filings.

Internal Controls and Procedures

There were no significant changes in internal controls or in other factors that could significantly affect these controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

PART II - - OTHER INFORMATION

Item 1. Legal Proceedings. None

Item 1A. Risk Factors. None

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

On March 13, 2006, the Company sold 692,003 shares of common stock at $7.23 per share to Cook, for gross proceeds of $5,000,000. The net proceeds of $4,955,723 will be used for working capital purposes. The shares were issued in connection with the execution of license and supply agreements. The shares were issued directly to the purchaser, without the use of an underwriter in a transaction exempt from registration under Sections 4(2) and 4(6) of the Securities Act of 1933, as amended and Rule 506 of Regulation D promulgated thereunder. The shares were subsequently registered for resale on Form S-3, (Registration No, 333-133211), which was declared effective by the Securities and Exchange Commission on April 24, 2006.

Item 3 Defaults Upon Senior Securities. None

Item 4. Submission of Matters to a Vote of Securities Holders. None

Item 5. Other Information. None

Item 6. Exhibits

		Incorporated by Reference to Filings Indicated				
Exhibit No	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
4.1	Third Restated Articles of Incorporation of AntiVirals Inc.	SB-2	333-20513	3.1	5/29/97	
4.2	First Amendment to Third Restated Articles of Incorporation of AntiVirals Inc.	8-K	0-22613	3.3	9/30/98	
4.3	Amendment to Article 2 of the Company's Third Restated Articles of Incorporation	DEF 14A	1-14895	N/A	4/11/02	
4.4	Bylaws of AntiVirals Inc.	SB-2	333-20513	3.2	5/29/97	
10.50+	Supply Agreement, dated March 10, 2006, by and between Cook Group Incorporated and AVI BioPharma, Inc.	S-3	333-133211	10.50	04/11/06	
10.51+	License and Development Agreement, dated March 10, 2006, by and between Cook Group Incorporated and AVI BioPharma, Inc.	S-3	333-133211	10.51	04/11/06	
10.52+	Investment Agreement, dated March 10, 2006, by and between Cook Group Incorporated and AVI BioPharma, Inc.	S-3	333-133211	10.52	04/11/06	
10.53+	License Agreement dated January 26, 2006 by and between with Chiron Corporation and AVI BioPharma, Inc.					X
10.54	Stock Purchase Agreement dated January 26, 2006 by and between with Chiron Corporation and AVI BioPharma, Inc.					X
31.1	Certification of the Company's Chief Executive Officer, Denis R. Burger, Ph.D., pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Chief Financial Officer, Mark M. Webber pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32	Certification of the Company's Chief Executive Officer, Denis R. Burger, Ph.D., and Chief Financial Officer, Mark M. Webber, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					X

Materials in the exhibit marked with a "+" have been omitted pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Securities and Exchange Commission.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: May 10, 2006

AVI BIOPHARMA, INC.

By: /s/ DENIS R. BURGER, Ph.D.
Denis R. Burger, Ph.D.
Chief Executive Officer
and Chairman of the Board of Directors
(Principal Executive Officer)

By: /s/ MARK M. WEBBER
Mark M. Webber
Chief Financial Officer and Chief Information Officer
(Principal Financial and Accounting Officer)

NOTE: Portions of this document marked "***" have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment of the omitted and separately filed portions.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into as of January 26, 2006 (the "Effective Date") by and between AVI BioPharma, Inc., an Oregon corporation having its principal place of business at One SW Columbia, Suite 1105, Portland, Oregon 97258, and Chiron Corporation, a Delaware corporation having its principal place of business at 4560 Horton Street, Emeryville, California 94608, U.S.A. ("Chiron").

BACKGROUND

WHEREAS, Chiron has developed certain intellectual property rights with respect to HCV (as hereinafter defined) which relate to the HCV genome and encoded proteins;

WHEREAS, Licensee (as hereinafter defined) is engaged in research and development of antisense compounds for the treatment of HCV infection and desires to commercialize such compounds, which activities may fall within the scope of the Chiron Patent Rights (as hereinafter defined) as well as under Licensee's own issued and pending patents;

WHEREAS, Licensee wishes to obtain a license under the Chiron Patent Rights for such purposes;

WHEREAS, Chiron is willing to grant, and has offered to grant Licensee, a license under the Chiron Patent Rights for a negotiable fully paid-up, one-time fee; and

WHEREAS, as an alternative to the arrangement whereby Licensee would secure a license under the Chiron Patent Rights for a fully paid up one time fee, Licensee wishes to enter into an arrangement pursuant to which Licensee shall provide consideration for the license under Chiron Patent Rights by paying to Chiron milestone and royalty payments, which payments represent Chiron's interest in the value contributed by the licensure of Chiron Patent Rights to Licensee's program(s) for the research, development and commercialization of Identified Products (as hereinafter defined).

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

1. DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply, and the terms defined herein in plural shall include the singular and vice-versa:

1.1. **"Affiliate"** means, with respect to a party hereto, any corporation, partnership, joint venture or other business arrangement which is controlled by, controlling or under common control with such party, and shall include any direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock or participating profit interest of such corporation or other business entity. Without limiting the generality of the foregoing, the Affiliates of Chiron expressly exclude Novartis A.G, a Swiss corporation, and any Affiliate thereof not otherwise an Affiliate of Chiron (collectively, "Novartis") unless and until such time as Novartis exercises its rights to control Chiron in accordance with the terms and conditions of the November 20, 1994 Governance Agreement between Chiron and Novartis' predecessor in interest, Ciba-Geigy Limited.

1.2. **"Chiron Patent Rights"** means the patents or patent applications owned by Chiron listed in Exhibit A attached hereto, together with all patents issuing thereon, including any divisionals, continuations, continuations-in-part, reissues, reexaminations and extensions thereof, and foreign counterparts. Upon request of Licensee, in the event that Licensee demonstrates that any patent or patent application owned by Chiron Corporation as of the Effective Date, but not listed in Exhibit A, is necessary to conduct activities in the Research and Development Field with respect to Identified Products, provided that such patent or patent application is licensable by Chiron to Licensee on the terms and conditions set forth herein, Exhibit A shall be amended to include such patent or patent application. For the avoidance of doubt, Chiron Patent Rights expressly excludes patents that as of the Effective Date are owned or controlled by any Third Party or Affiliate to which Chiron may assign its rights and obligations under this agreement in accordance with Section 10.4 of this Agreement.

1.3. **"Clinical Trial"** means a Phase I Clinical Trial, a Phase II Clinical Trial, or a Phase III Clinical Trial, as the case may be.

1.4. "**Confidential Information**" means each party's confidential and/or proprietary information, including but not limited to each party's know-how, invention disclosures, technology, libraries, targets, compounds, patents, proprietary materials and/or technologies, economic information, business or research strategies, trade secrets and material embodiments thereof. The terms of this Agreement and the Stock Purchase Agreement shall be considered the confidential information of each party.

1.5. **"FDA"** means the United States Food and Drug Administration and any successor drug regulatory entity thereto.

1.6. **"HCV"** means the Hepatitis C virus, including any isolates, strains (natural or engineered) or mutations thereof.

1.7. **"Identified Products"** means siRNA or Antisense Compounds, whether developed prior to, on, or after the Effective Date, that:

1.7.1. are designed to inhibit HCV by hybridizing to the HCV genome or its complementary RNA resulting in direct or indirect inhibition of HCV replication, transcription, translation or modification of the HCV genome or its complementary RNA, or reducing stability of

HCV nucleic acids or by similar methods of inhibition of host factors involved in HCV expression or replication, with respect to which Licensed Processes were employed at any time during the course of the research, development of commercialization of such compounds; or

1.7.2. act on, whether by modulation, stimulation, inhibition, or otherwise:

(a) the HCV genome or its complementary RNA with respect to which Licensed Processes were employed at any time during the course of the research, development or commercialization of such compounds; or

(b) a molecule of which any portion of the HCV genome or its complementary RNA is a component part, with respect to which Licensed Processes were employed at any time during the course of the research, development or commercialization of such compounds; or

1.7.3. act on, whether by modulation, stimulation, inhibition, or otherwise, HCV and that are derived from, synthesized using, based on data from, or reasonably suggested by compounds described in Section 1.7.1 or 1.7.2 irrespective of whether Licensed Processes were utilized at any time during the course of the research, development or commercialization of such compounds.

1.8. "**IND**" means (a) an Investigational New Drug Application (as defined in the U.S. Federal Food, Drug and Cosmetic Act, as amended, and the regulations promulgated thereunder) that is required to be filed with the FDA before beginning clinical testing of an Identified Product in human subjects, or any successor application or procedure or (b) any counterpart of an Investigational New Drug Application that is required in any other country or region in the Licensed Territory before beginning clinical testing of an Identified Product in human subjects in such county or region.

1.9. "**Licensee**" means AVI Biopharma, Inc., an Oregon corporation, and any Affiliates thereof.

1.10. **"Licensee Facility"** means and is limited to the facilities of Licensee and its Affiliates located at the locations specified in Exhibit B. Licensee may add additional locations to this list with prior written notice to Chiron.

1.11. **"Licensed Composition"** means any composition, the making, using, selling, keeping, offering for sale, importing or exporting thereof would, but for the license granted herein, infringe any Valid Claim within Chiron Patent Rights, if practiced in a Reference Country.

1.12. **"Licensed Method"** means any method or process, the practice of which would, but for the license granted herein, infringe a Valid Claim of the Chiron Patent Rights, (including the manufacture, use, sale, keeping, offer for sale, importation or exportation of a product which would infringe any such Valid Claim), if practiced in a Reference Country.

1.13. **"Licensed Processes"** means any process that involves the use, practice or manufacture of a Licensed Composition and/or Licensed Method, including: (a) the design, synthesis, screening, identification, selection or improvement of compounds (including mixtures thereof), bioactive "hits" or research leads during drug discovery research; and (b) the optimization, formulation, characterization or evaluation of lead compounds or development candidates during preclinical research or development.

1.14. **"Licensed Territory"** means (a) for purposes of use of the Licensed Processes, any country in the world where Licensee has a Licensee Facility and (b) for purposes of development and commercialization of Identified Products means worldwide.

1.15. **"NDA"** means a New Drug Application or a Biologics License Application, each as defined in the U.S. Federal Food, Drug, and Cosmetics Act, as amended, and the regulations promulgated thereunder, and any corresponding foreign or domestic marketing authorization application, registration or certification, necessary or reasonably useful to market a Identified Product in the Licensed Territory, but not including pricing or reimbursement approvals.

1.16. **"Net Sales"** shall be calculated in accordance with U.S. generally accepted accounting principles and, for each calendar year during the Term, means the gross amount billed or invoiced for sales or other dispositions of all Identified Products by Licensee or a Third Party Beneficiary hereunder (other than sales or other dispositions to Affiliates unless such Affiliate is the end user) less the following deductions actually paid or incurred (to the extent they are not already reflected in the amount invoiced and to the extent they are not otherwise covered or reimbursed) during such calendar year: (a) discounts, returns, allowances, and wholesaler chargebacks allowed and taken in amounts customary in the trade; (b) import, export, excise, sales or use taxes, value added taxes, and other taxes, tariffs or duties directly imposed and properly allocable to Identified Product sales, but not taxes assessed on income derived from Identified Product sales; (c) separately itemized shipping, freight charges or insurance paid; and (d) amounts allowed or credited for retroactive price reductions or rebates. Where Identified Product is sold in the form of a combination product containing one or more active ingredients in addition to an Identified Product, Net Sales for such combination product will be calculated by multiplying actual Net Sales of such Combination Product by the fraction A/(A+B) where A is the invoice price of the Identified Product if sold separately, and B is the total invoice price of any other active component or components, or devices, in the combination, if sold separately. If, on a country-by-country basis, the other active component or components in the combination are not sold separately in said country, Net Sales for the purpose of determining royalties of the combination product shall be calculated by multiplying actual Net Sales of such combination product by the fraction A/C where A is the invoice price of the Identified Product, if sold separately,

and C is the invoice price of the combination product. If, on a country-by-country basis, neither the Identified Product nor the other active component or components of the combination product is sold separately in said country, Net Sales for the purposes of determining royalties of the combination product shall be determined by the parties by mutual agreement. If Licensee receives any consideration for the sale or other disposal of any Identified Product or for the use of any Identified Product other than monetary consideration under bona fide arm's length terms, then for the purposes of calculating the royalty payable under this Agreement, such Identified Products shall be deemed to be sold exclusively for money at the fair market price generally achieved for such Identified Products in the country in which such sale or other disposal or use occurred when such Identified Products are sold alone and not with other products.

1.17. **"Phase I Clinical Trial"** shall mean first human dosing, such as pursuant to a clinical trial, conducted in accordance with 21 C.F.R. 312.21(a) or other applicable regulatory requirements outside the United States, designed to establish the safety, and preliminary evidence of effectiveness, of a pharmaceutical product for human use.

1.18. **"Phase II Clinical Trial"** shall mean first human dosing pursuant to a clinical trial, conducted in accordance with 21 C.F.R. 312.21(b) or other applicable regulatory requirements outside the United States, of appropriate size and designed to evaluate the effectiveness of a pharmaceutical product in patients with the disease for its intended use and in the dosage range to be prescribed by identifying the proportion of patients within the trial who respond to the pharmaceutical product.

1.19. **"Phase III Clinical Trial"** shall mean first human dosing pursuant to a clinical trial, conducted in accordance with 21 C.F.R. 312.21(c) or other applicable regulatory requirements outside the United States, that is conducted after preliminary evidence suggesting effectiveness has been obtained, that is of appropriate size and design to establish that a pharmaceutical product is safe and effective for its intended use, to define warnings, precautions and adverse reactions that are associated with the pharmaceutical product in the dosage range to be prescribed, and to support regulatory approval of such pharmaceutical product or label expansion of such pharmaceutical product.

1.20. **"Reference Countries"** means the United States of America for any activities that are conducted in the United States of America, and the United Kingdom for any activities that are conducted outside the United States of America.

1.21. **"Research and Development Field"** means therapeutic applications for HCV infection, and expressly excludes applications in: (i) small molecules, including small molecular weight chemical molecules other than oligonucleotide and nucleic acid-based molecules, (ii) diagnostics, including nucleic acid testing and immunodiagnostics, (iii) vaccines and (iv) peptide and protein based products (collectively, the "Excluded Applications").

1.22. **"siRNA or Antisense Compounds"** means short, linear nucleic acid oligomers or polymers, including nucleic acid analogs, and conjugates of any of the foregoing with agents such as polypeptides that act to enhance the uptake or therapeutic activity of the nucleic acids or nucleic acid analogs.

1.23. **"Term"** shall have the meaning set forth in Section 8.1.

1.24. **"Third Party"** means a person or entity other than a party to this Agreement or its respective Affiliates.

1.25. "**Third Party Beneficiary**" means any Third Party receiving from Licensee, directly or indirectly, any beneficial interest in an Identified Product or information enabling the development of an Identified Product, and includes any sublicenses or other rights granted in accordance with Section 2.2.

1.26. "**Valid Claim**" means any claim of an issued (or granted) and unexpired patent that (a) has not been held unenforceable, unpatentable or invalid by a decision of a court or governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for an appeal and (b) has not been admitted by Chiron to be invalid or unenforceable generally through reissue or disclaimer.

2. LICENSE

2.1. **Research and Development License Grant; Commercial License**. Subject to all of the terms and conditions in this Agreement, Chiron hereby grants to Licensee, a non-transferable, non-exclusive license, with the right to sublicense solely as set forth in Section 2.2, under the Chiron Patent Rights, to use Licensed Compositions and Licensed Methods in the Research and Development Field at a designated Licensee Facility in the Licensed Territory during the Term and to make, have made, use, have used, sell, have sold, import, and export Identified Products during the Term of this Agreement (the "License").

2.2. **Sublicenses**. Licensee may grant sublicenses under the licenses granted in Section 2.1 or other rights to exploit Identified Products only as set forth below.

2.2.1. License may grant sublicenses to Third Parties with which Licensee has a written agreement under which Licensee and such Third Parties collaborate on research within the Research and Development Field; provided that, (i) Licensee has provided Chiron with prior written notice identifying any such Third Party and the scope of the collaboration (which notice may be provided prior to execution of such agreement, provided that negotiations of such agreement have commenced, or during the term of such agreement); (ii) that the proposed scope of the

sublicense is limited to the research in the Research and Development Field, does not grant the right for commercialization of any Identified Products, and, in any event, does not exceed the scope or duration of the license granted to Licensee under Section 2.1; (iii) Chiron does not within thirty (30) days after its receipt of such written notice reasonably object in writing to the grant of such sublicense; (iv) such Third Party agrees to be bound by all of the applicable terms and conditions of this Agreement (including Article 5); and (v) such sublicense shall terminate upon the expiration or termination of its written agreement with Licensee with respect to such collaboration with Licensee. For the purposes of Section 2.2.1(iii), it shall not be unreasonable for Chiron to withhold or delay consent if Chiron reasonably believes that the proposed Third Party (a) has or is infringing any Chiron Patent Rights or (b) has or is challenging the validity of any Chiron Patent Rights.

2.2.2. Notwithstanding the foregoing, Licensee may sublicense, or otherwise grant or authorize, Third Parties to market, distribute, sell or otherwise commercialize any Identified Product, provided that (i) Licensee shall remain obligated to make applicable milestone and royalty payments under Section 3.1 for such Identified Products and (ii) such Third Parties shall be subject to all obligations of Licensee under this Agreement (including payment, reporting and indemnity provisions); provided that neither Licensee nor any such Third Party shall be required to make duplicate payments for any one Identified Product for which payment has been received by Chiron.

2.3. **Acquired Compounds**. Licensee shall provide Chiron prior written notice (the "Third Party Notice") if Licensee seeks to obtain from any Third Party to which Chiron has not granted a license under Chiron Patent Rights to practice Licensed Processes in the Research and Development Field (a "Third Party Licensor") a license or other right (an "In-License") to make, have made, use, have used, sell, have sold, import, or export any compound owned or controlled by such Third Party Licensor that (i) is a siRNA or Antisense Compound that has therapeutic applications for HCV infection, (ii) is not within the Excluded Applications, and

(iii) is reasonably likely to have been identified, discovered or generated through the practice of Licensed Processes. The Third Party Notice shall identify (a) each compound (but not structures) sought from the Third Party Licensor, (b) the targets of action of such compound to the extent known, (c) the date on which Licensed Processes are believed to first have been used by such Third Party Licensor, (d) the stage of development of such compound, (e) the scope the license to be granted to Licensee (including degree of exclusivity and territories included), and (f) the identity of such Third Party Licensor. Chiron may, in its sole discretion, approve or reject some or all of the In-Licenses set forth in the Third Party Notice, and shall make such approval or rejection in writing within thirty (30) days of receipt of the Third Party Notice. Upon Chiron's written approval of an In-License, each compound that is the subject of the In-License (an "Acquired Compounds") shall become an Identified Product under this Agreement for all purposes, including the obligations to make milestone and royalty payment. Within ten (10) days of reaching a binding agreement with the Third Party Licensor for such In-License ("In-License Date"), Licensee shall pay to Chiron for such Identified Product any milestone payments in accordance with Section 3.1.1 for milestone events that occurred prior to the In-License Date, and any royalty payments in accordance with Section 3.1.2 and 3.1.3 for periods prior to the In-License Date.

2.4. **No Rights by Implication**. Licensee's rights under the Chiron Patent rights shall be limited to those rights specified in Sections 2.1 and 2.2, and Chiron retains all other rights related thereto.

3. PAYMENTS

3.1. **Payments**. In consideration of Chiron's grant of the License to Licensee, Licensee shall, in addition to the other Licensee obligations referenced herein, make to Chiron the payments referenced in this Section 3.1.

3.1.1. **Milestone Payments**. With respect to each and every Identified Product developed by Licensee or any Third Party Beneficiary that reaches the milestone events referenced in this Section 3.1.1, Licensee shall pay to Chiron the following milestone payments within thirty (30) days following the occurrence of each such milestone event:

(a) Upon filing of an IND or commencement of Phase I Clinical Trials, whichever occurs first: *** ("First Milestone Payment"); and

(b) Upon commencement of Phase II Clinical Trials: ***; and

(c) Upon commencement of Phase III Clinical Trials: ***; and

(d) Upon filing of an NDA: ***; and

(e) Upon approval of an NDA: ***.

For the avoidance of doubt, each payment pursuant to clause (a), (b), (c), (d) or (e) above shall be non-refundable, non-creditable, non-cancelable and payable once (and only once) with respect to each Identified Product regardless of the number of countries in which clinical trials are conducted or the number of NDA registrations filed or

approved with respect to such Identified Product. If a milestone event occurs and Licensee has not made any milestone payments due for previous milestone events (regardless of whether such milestone events have occurred), Licensee shall pay to Chiron the amounts due for such previous milestone events in conjunction with the payments for the current milestone events. For purposes of this Section 3.1.1, "commencement" of

particular Clinical Trial shall mean the earlier of (i) the date of first such dosing of Identified Product in humans as part of such Clinical Trial and (ii) the date upon which Licensee makes a public announcement that such Clinical Trial has commenced.

3.1.2. **Royalty Payments**. Licensee shall pay Chiron royalty payments with respect to Net Sales of Identified Products in accordance with the following royalty payment schedule:

For Aggregate Annual Worldwide Net Sales of Identified Products:	**Royalty Rate**
Above $0 and up to *** million	***%
Above *** million	***%

Following the first commercial sale of an Identified Product, Licensee will make royalty payments to Chiron on a quarterly basis. Payments will be due within forty-five (45) days of the end of each calendar quarter.

3.1.3. **No Valid Claim**. If during any time period, an Identified Product is exploited in a country of the Licensed Territory and is not covered by a Valid Claim under any Chiron Patent Rights in such country, the Royalty Rate payable by Licensee during the time period in which there is no such coverage by a Valid Claim for such Identified Product shall be as follows:

For Aggregate Annual Worldwide Net Sales of Identified Products	**Royalty Rate**
Above $0 and up to *** million	***%
Above *** million	***%

3.1.4. **Prior Activity**. Any Identified Products that have been developed prior to the Effective Date by Licensee or its sublicensees shall be set forth in Exhibit C hereto, and shall include the latest stage of clinical achievement for such Identified Products. On the Effective Date, Licensee shall pay to Chiron any milestone or royalty payments under Sections 3.1.1, 3.1.2 and 3.1.3 for such Identified Products related to periods prior to the Effective Date; provided, however, that in lieu of receiving the First Milestone Payment with respect to that certain Identified Product described on Exhibit C

as HCV AUG (AVI-4065) and described therein as having commenced a phase I/II trial, Chiron has agreed to receive from Licensee certain common stock of Licensee as set forth in that certain Stock Purchase Agreement between the parties dated of even date herewith. Any breach of such agreement by Licensee shall constitute a material breach of this Agreement.

3.2. **Manner of Payment**. All payments hereunder shall be in United States dollars in immediately available funds and shall be made by wire transfer to such bank account as may be designated from time to time by Chiron.

3.2.1. **Exchange Rate**. In the event that Identified Products are sold in currencies other than United States dollars, Net Sales shall be calculated by Licensee in accordance with generally accepted accounting principles. Net Sales in such other currencies shall be converted into U.S. dollars at the end of each royalty reporting period using an exchange rate equal to the simple average of the daily "U.S. dollar noon buying rates" on each business day of the applicable royalty reporting period, as published at 12:00pm daily New York time by the Federal Reserve Bank of New York (available on Bloomberg & Reuters). Royalty payments due to Chiron pursuant to Section 3.1.2 and 3.1.3 shall be calculated based on the Net Sales in United States dollars as calculated above.

3.2.2. **Blocked Currency**. In the event that restrictions or prohibitions imposed by a national or international government authority preclude conversion of a national or international currency into United States dollars, Licensee and Chiron shall consult to find a prompt and acceptable solution and, prior to Licensee and Chiron determining such an acceptable solution, Licensee shall handle all money received by Licensee from the sale or other distribution of Identified Products as Chiron may lawfully direct. The cost and expense incurred as a consequence of any such handling shall be borne equally by Licensee and Chiron. Notwithstanding the foregoing, if any national or international currency cannot be converted into United States dollars when payment to Chiron is due and payable under Section 3.1 above, Licensee shall deposit the local currency equivalent of the United States dollar payment amount due and payable to Chiron in an interest-bearing account in the name of Chiron. In the event that conversion into United States dollars of any payment amount due and payable to Chiron deposited in an interest-bearing account pursuant to the previous sentence becomes possible, Licensee shall deliver such payment amount to Chiron promptly, however, if conversion of any such amount is not possible within twelve (12) months after the date payment was due and payment to Chiron, Licensee shall transfer to Chiron the amount deposited in the name of Chiron, together with all interest accrued on the amount deposited after the date of deposit.

3.2.3. **Late Payment**. Any payment, including royalty payments, made by Licensee hereunder after the date such payment is due, shall bear interest at the lesser of: (a) 300 basis points above the three (3) month United States Dollar LIBOR as published in the Wall Street Journal on the day which is two business days prior to the date the payment is due, or (b) the maximum rate permitted by applicable law (the "Interest Rate"). The Interest Rate shall be calculated from the date payment was due until actually received by Chiron (the "Interest Period") based on actual number of days

lapsed and a 360-day year. If the Interest Period extends beyond three (3) months, at the beginning of each three (3) month interval, the Interest Rate will be recalculated using the current three (3) month LIBOR, as described above, until the payment is received.

3.2.4. Underpayment. If an Inspection (as defined in Section 4.3) reveals an underpayment, then Licensee shall promptly make up such underpayment with interest at the Interest Rate from the date payment was owed.

3.3. Withholding Taxes. If applicable law requires that Licensee withhold any taxes from the amounts paid to Chiron hereunder, Licensee shall deduct such taxes from the amounts paid by Licensee hereunder, make timely payment of such taxes to the proper taxing authority for the account of Chiron and send proof of such payment to Chiron within thirty (30) days following such payment. Further, Licensee shall provide Chiron copies of any tax receipts for any such taxes paid, together with copies of all pertinent communications from or with governmental authorities with respect thereto. At Chiron's reasonable request and at Chiron's reasonable expense, Licensee shall reasonably assist Chiron in any effort by Chiron in claiming any exemption from such taxes under any double taxation or similar agreement or treaty from time to time in force, and in minimizing the amount required to be so withheld.

3.4. More Favorable Terms. Chiron represents that as of the Effective Date it has not offered to any third party a license to the Chiron Patents and Licensed Processes in the Research and Development Field to make, have made, use, have used, sell, have sold, import and export Identified Products on terms that are substantially more favorable on the whole than the terms of the license to Licensee hereunder.

4. STATEMENTS, RECORDS AND INSPECTION

4.1. Statements. All milestone and royalty payments made to Chiron hereunder shall be accompanied by a written statement setting forth in reasonable detail the calculation thereof, including, for example, in the case of royalty payments, the gross amount billed or invoiced by Licensee or an affiliate or commercial collaborators or any other Third Party for the sale or distribution for the Identified Product, itemized deductions against such gross amount, and Net Sales on a country-by country basis. Such statement shall contain reference to Net Sales by territory in United States Dollars, as calculated by the method in Section 3.2.

4.2. Record Keeping. Licensee shall keep and maintain, and shall cause its Affiliates and Third Party Beneficiaries to keep and maintain, complete and accurate books of account and adequate records of all sales of Identified Products in sufficient detail to permit Chiron to confirm the accuracy of reported royalties hereunder, including general accounting ledgers, invoice/sale registers, original invoices and shipping documents, tax returns, inventory and manufacturing records, sublicense and distributor agreements and price lists, product catalogs and other marketing materials, and shall retain such books and records for a period of three years from the last day of the calendar quarter in which such sales were made.

4.3. Inspection. Chiron may from time to time and at any reasonable time, not exceeding once every twelve (12) months, audit (each such audit, an "Inspection") the books and records of Licensee, Licensee's Affiliates or Third Party Beneficiaries, as the case may be,

and records and books of sublicensees, to the extent necessary in order to verify the accuracy of any report or payment made under this agreement, or in the case of Licensee's failure to make reports or pay royalties, to obtain information as to the royalty payable for any such period, by Licensee to Chiron (within the three (3) full-year period immediately preceding such audit). Any such audit will be conducted by a certified public accountant selected by Chiron, unless Licensee reasonably objects to such certified public accountant ("Auditor"), on reasonable notice and during normal business hours. The Auditor will execute a confidentiality agreement with Licensee in which the Auditor agrees to only discuss with Chiron information and findings relevant to royalty calculations and payments pursuant to this Agreement. Books and records shall include but not be limited to: (a) accounting general ledgers (electronically if available); (b) invoice/sales registers; (c) original invoice and shipping documents; (d) federal and state business tax returns; (e) company financial statements; (f) sales analysis reports; (g) inventory and or manufacturing records; (h) sublicense and distributor agreements; and (i) price lists, product catalogs and other marketing materials. Licensee agrees to maintain such books and records for a period of not less than five (5) years from the date each royalty report is submitted to Chiron. Such Inspection shall be at Chiron's expense unless a royalty payment deficiency is determined and such deficiency is five percent (5%) or greater, for any royalty reporting period included in the examination. In such case Licensee shall be responsible for reimbursing Chiron for the examination fee and expenses charged by the Auditor. Licensee agrees to pay past due royalties (with interest as per Section 3.2.3) for any royalty deficiency error as determined by the Auditor, which affects periods prior to the period under audit. Chiron and the Auditor shall maintain in confidence such inspection and its resulting report. The Auditor may not disclose financial or proprietary information except as required by this Agreement or if it already exists in the public domain.

5. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

5.1. Mutual Warranties. Each party represents and warrants to the other party that (a) it has all requisite corporate power and authority to enter into this Agreement, to grant the licenses granted by it hereunder, and to perform its other obligations under this Agreement, (b) execution of this Agreement and the performance by the warranting party of its obligations hereunder, including the licenses granted by that party hereunder, have been duly authorized, and (c) this Agreement is fully binding and enforceable in accordance with its terms subject to the effects of bankruptcy, insolvency or other

laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity, whether enforceability is considered a proceeding at law or equity.

5.2. **Licensee Warranties and Covenants**. Licensee warrants, represents and covenants that:

5.2.1. all of its activities related to its use of the Chiron Patent Rights pursuant to this Agreement shall comply in all material respects with all applicable legal and regulatory requirements, including all applicable regulatory requirements; and

5.2.2. it shall not engage in any activities that would infringe the Chiron Patent Rights that are outside the scope of the Research and Development License

granted hereunder (including the use of the Licensed Processes after the termination of the Term).

5.3. **DISCLAIMER**. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CHIRON MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE CHIRON PATENT RIGHTS OR ANY LICENSE GRANTED BY CHIRON HEREUNDER, OR WITH RESPECT TO ANY PRODUCTS OR SERVICES OF LICENSEE. FURTHERMORE, NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS A WARRANTY THAT ANY PATENT OR OTHER PROPRIETARY RIGHTS INCLUDED IN THE CHIRON PATENT RIGHTS ARE VALID OR ENFORCEABLE OR THAT LICENSEE'S USE OF THE CHIRON PATENT RIGHTS CONTEMPLATED HEREUNDER DOES NOT INFRINGE ANY PATENT RIGHTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

5.4. **Patent Matters**. Chiron shall have the exclusive right to take action against any infringement of any of the Chiron Patent Rights, in its sole discretion. Licensee shall cooperate reasonably in any action Chiron may take against any such infringement, upon Chiron's request and at Chiron's expense.

6. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT OR OTHERWISE, EXCEPT WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7, NEITHER PARTY SHALL BE LIABLE TO THE OTHER WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

7. INDEMNITY

7.1. **Licensee Indemnity**. Subject to Section 7.2, Licensee shall indemnify, defend and hold harmless Chiron and its Affiliates and the officers, directors, employees, agents and representatives of Chiron and its Affiliates from and against any and all claims, threatened claims, damages, losses, suits, proceedings or liabilities of any kind ("Claims") arising out of or relating to Licensee's manufacture, use, sale, offering for sale, importation or exportation of Identified Products or to its use otherwise of the Chiron Patent Rights, including Claims based on product liability or infringement of Third Party patent or intellectual property rights.

7.2. **Indemnification Procedures**. Chiron shall notify Licensee in writing promptly upon becoming aware of any Claim to which such indemnification may apply. Licensee shall be relieved of its obligation of indemnification to the extent, and only to the extent, Licensee is prejudiced by any failure of Chiron to provide Licensee with the foregoing notice of any such Claim within a reasonable period of time. Licensee shall have the right to assume and control the defense of the Claim at its own expense. If the right to assume and have sole control of the defense is exercised by Licensee, Chiron shall have the right to participate in, but not control, such defense at its own expense and Licensee's indemnity obligations shall be deemed not to

include attorneys' fees and litigation expenses incurred by Chiron after the assumption of the defense by Licensee. If Licensee does not assume the defense of the Claim, Chiron may defend the Claim at Licensee's expense but shall have no obligation to do so. Chiron will not settle or compromise the Claim without the prior written consent of Licensee, and Licensee will not settle or compromise the Claim in any manner which would have an adverse effect on Chiron without the consent of Chiron, which consent, in each case, will not be unreasonably withheld. Chiron shall reasonably cooperate with Licensee and will make available to Licensee all pertinent information under the control of Chiron.

7.3. **Presumptions and Burden of Proof Regarding Claims of Exempt Product Status**. The parties agree that there shall be a presumption that siRNA or Antisense Compounds for the treatment of HCV infection arising prior to the expiration of Chiron Patent Rights in the relevant Reference Country from Licensee's program for research, development and commercialization of HCV genome and complementary RNA inhibitor products (a "Product in Question") are Identified Products, and are subject to the obligations governing Identified Product provided herein. In the event that Licensee contends that a Product In Question is not an Identified Product (an "Exempt Product") Licensee shall have the burden of proving such contention by a preponderance of the evidence, and the provisions of Section 7.4 shall apply.

7.4. **Exempt Product Notification**. In the event that Licensee or any Licensee Affiliate files an IND for any Product in Question after the Effective Date that Licensee contends is an Exempt Product, Licensee shall provide Chiron written notice providing particular and sufficient facts which are the basis for such contention (the "Exempt Product Notification"). Licensee shall provide Chiron with the Exempt Product Notification within thirty (30) days following the IND filing of any such alleged Exempt Product (the "Exempt Product Notification Period"). In the event that Licensee submits to Chiron an Exempt Product Notification, Chiron shall have the right to have Licensee's claim that the Product in Question is an Exempt Product evaluated by an qualified expert in the pharmaceutical industry chosen by Chiron. In the event that Chiron disputes Licensee's claim that the Product in Question is an Exempt Product after such evaluation, the dispute shall be governed by the dispute resolution provisions provided herein, provided that the presumption and burden of proof provisions referenced in Section 7.3 shall apply to such dispute resolution. In the event that Licensee fails to provide Chiron with an Exempt Product Notification within the Exempt Product Notification Period, Licensee shall thereafter be estopped from asserting that the Product in Question is an Exempt Product.

8. TERM AND TERMINATION

8.1. **Term**. The term of this Agreement (the "Term") shall commence as of the Effective Date and, unless earlier terminated in accordance with Section 8.2, shall continue until the later to occur of (a) the twentieth anniversary of the Effective Date and (b) the expiration date of the last to expire of any issued Chiron Patent that includes at least one Valid Claim covering such Identified Product in any country in which Identified Product is being sold. In acknowledgement of Licensee's agreement to enter into a deferred payment arrangement instead of paying a fully negotiable up-front fee for the license to the Chiron Patent Rights granted herein, Licensee agrees that Licensee's obligation to pay milestone payments pursuant to Section 3.1.1 and royalty payments pursuant to Sections 3.1.2 and 3.1.3

shall be unconditional and irrevocable during the Term, notwithstanding any earlier expiration or invalidation of any or all of the Chiron Patent Rights.

8.2. **Termination.**

8.2.1. Chiron shall have the right to terminate this Agreement, at Chiron's sole discretion, upon delivery of written notice to Licensee, upon the occurrence of any of the following:

(a) In the event of any breach by Licensee of any terms and conditions of this Agreement, provided that such breach has not been cured within sixty (60) days after written notice thereof is given by Chiron to Licensee; or

(b) In the event that Licensee or any Third Party Beneficiary challenges or knowingly supports (other than pursuant to a subpoena or other court order) a challenge to the validity of any of the Chiron Patent Rights.

8.2.2. Either party shall have the right to terminate this Agreement, upon the filing by the other party in any court or agency pursuant to any statute or regulation of the United States or any state a petition in bankruptcy or insolvency or for reorganization or similar arrangement or for the appointment of a receiver or trustee of such party or its assets, upon the proposal of a written agreement of composition or extension of its debts, or if such party is served with an involuntary petition against it in any insolvency proceeding, upon the ninety-first (91st) day after such service if such involuntary petition has not previously been stayed or dismissed, or upon the making by such party of an assignment for the benefit of its creditors.

8.3. **Effect of Termination or Expiration.**

8.3.1. **In General**. Upon termination of this Agreement for any reason:

(a) All rights and licenses granted to Licensee in Article 2 shall terminate, and Licensee shall cease all use of Chiron Patent Rights, including any research, development, use, manufacture and sale of Identified Products;

(b) Without limitation to Section 8.3.2, any and all royalty and milestone payment and related obligations of Licensee, if any, shall survive;

(c) Chiron shall have the right to retain all amounts previously paid to Chiron by Licensee; and

(d) Neither party shall be relieved of any obligation which accrued prior to the effective date of such expiration or early termination.

8.3.2. **Survival**. Except as expressly provided herein, the following provisions shall survive expiration or termination of this Agreement: Article 3, Section 4.3, Article 5, Article 6, Article 7, Section 8.3, Article 9, Article 10 and any other provisions which by their nature are intended to survive termination.

9. CONFIDENTIAL INFORMATION

9.1. **Confidentiality**. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing, the parties agree that, for the term of this Agreement and for ten (10) years thereafter, each party (the "Receiving Party") receiving any Confidential Information of the other party (the "Disclosing Party") shall keep such Confidential Information confidential and shall not publish or otherwise disclose or use such Confidential Information for any purpose other than as provided for by in this Agreement except for Confidential Information that the Receiving Party can establish:

9.1.1. was already known to the Receiving Party (other than under an obligation of confidentiality), at the time of disclosure by the Disclosing Party and such Receiving Party has documentary evidence to that effect;

9.1.2. was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

9.1.3. became generally available or known, or otherwise became part of the public domain, after its disclosure to, or, with respect to know-how, discovery or development by, such Receiving Party through no fault of the Receiving Party;

9.1.4. was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a Third Party who had no obligation to the Disclosing Party not to disclose such information to others; or

9.1.5. was independently discovered or developed by or on behalf of the Receiving Party without the use of the Confidential Information belonging to the other party and the Receiving Party has documentary evidence to that effect.

9.2. **Authorized Disclosure and Use**. Notwithstanding Section 9.1, each party may disclose Confidential Information belonging to the other party to the extent such disclosure is required to comply with a court order or applicable governmental law or regulation, including law and regulations of the United States Securities and Exchange Commission ("SEC"), the National Association of Securities Dealers or any national stock exchange regulation, and except as expressly provided herein. In the event a party is required by court order to disclose Confidential Information belonging to the other party, the Disclosing Party shall provide sufficient notice to the other party and such reasonable cooperation and assistance to enable the other party to seek a protective order or otherwise prevent or limit disclosure or use of such Confidential Information. In the event a party is required to disclose the terms of this Agreement or the Stock Purchase Agreement to the SEC, such party shall seek confidential treatment of this Agreement and the Stock Purchase Agreement to the extent permitted by law and shall provide to the other party a copy of the proposed redactions to be provided in connection with the applicable confidential treatment request in advance of submission to the SEC and shall consider in good faith any suggestions of the other party with respect to the scope of such redactions. In addition, either party may disclose the terms of this Agreement and the Stock Purchase Agreement to its accountants or attorneys that are under a duty of confidentiality to such party.

9.3. **Publicity.** Except as set forth in this Section 9, neither Licensee nor Chiron shall make any public announcement concerning, or otherwise disclose, the existence or terms of this Agreement or the Stock Purchase Agreement without the prior written consent of the other party. Each party may issue a public announcement disclosing the execution of this Agreement following such execution; provided that such announcement shall not disclose the economic structure or terms of this Agreement; and provided further that the party making such public announcement shall submit the proposed form of public announcement to the other party at least (3) three business days in advance of the proposed date of issuance and shall incorporate the other party's reasonable comments and suggestions prior to issuance of such public announcement.

10. GENERAL

10.1. **Notices**. All notices or other communications required or permitted hereunder shall be in writing and delivered personally or by facsimile transmission (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by nationally-recognized overnight courier service, addressed as follows

If to Chiron:

Chiron Corporation
4560 Horton Street
Emeryville, California 94068-2916
Attention: President, Chiron BioPharmaceuticals
Fax: (510) 923-3832
Copy to: Office of the General Counsel
Fax: (510) 654-5360

If to Licensee:

AVI BioPharma, Inc.
One SW Columbia, Suite 1105
Portland, Oregon 97258
Attention: President
Fax: (503)-227-0751
Copy to: Vice President, Business Development
Fax: (503)-227-0751

or to such other address or facsimile number as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. Any such communication shall be deemed to have been given (a) when delivered, if personally delivered or sent by facsimile transmission on a business day; (b) on the business day after dispatch, if sent by nationally-recognized overnight courier; and (c) on the third (3rd) business day following the date of mailing, if sent by mail. In addition to any notices required or permitted hereunder, the parties shall use the contact information below for purposes of providing payment or accounting information set forth in Article 3 and 4 hereof:

If to Chiron:

Chiron Corporation
4560 Horton Street
Emeryville, California 94068-2916
Attention: Manager, R&D Operations
Tel: (510) 923-8128
Fax: (510) 923-5745

If to Licensee:

AVI BioPharma, Inc.
4575 SW Research Way, Suite 200
Corvallis, Oregon 97333
Attn: Chief Financial Officer
Tel: (541)-753-3635

10.2. **Force Majeure**. Neither party shall be liable for delay or failure in the performance of any of its obligations hereunder if such delay or failure is due to causes beyond its reasonable control, including acts of God, fires, earthquakes, strikes and labor disputes, acts of war, civil unrest or intervention of any governmental authority; provided, that the affected party promptly notifies the other party and further provided that the affected party shall use its commercially reasonable efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. When such circumstances arise, the parties shall negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to arrive at an equitable solution.

10.3. **Use of Names**. Licensee, at its sole cost and expense, shall be responsible for the selection, registration and maintenance of all trademarks which it employs in connection with its activities conducted pursuant to this Agreement, if any, and shall own and control such trademarks. Nothing in this Agreement shall be construed as a grant to Licensee of rights, by license or otherwise, to the use of any trademarks, service marks, logos or the name of Chiron for any purpose. Neither party shall use the name or marks or logos of the other party for any purpose without the prior written consent of such other party.

10.4. **Assignment**. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the party, except that (i) Chiron may, without Licensee's consent, assign all of its rights and obligations hereunder in connection with any transfer of all of the Chiron Patent Rights to any Affiliate of Chiron or another Third Party, (including a successor in interest); provided, however, that such Affiliate or other Third Party agrees to be bound by the terms of this Agreement; and (ii) Licensee may and shall assign all of its rights and obligation hereunder to a successor in interest of the entire business to which this Agreement relates, provided that such successor in interest agrees to be bound by the terms of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the parties' permitted successors and assigns.

10.5. **Waivers and Modifications**. The failure of any party to insist on the performance of any obligation hereunder shall not be deemed to be a waiver of such obligation. Waiver of any breach of any provision hereof shall not be deemed to be a waiver of any other breach of such provision or any other provision. No waiver, modification, release or amendment of any obligation under or provision of this Agreement shall be valid or effective unless in writing and signed by all parties hereto.

10.6. **Choice of Law and Jurisdiction**. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions thereof.

10.7. **Dispute Resolution**. Any dispute arising out of or in connection with this Agreement shall be resolved by the parties in the following manner:

10.7.1. **Informal Settlement**. Either party may initiate resolution of such controversy by providing to the other party a brief and concise statement of the initiating party's claims, together with relevant facts supporting them, and referring to this Section 10.7. For a period of sixty (60) days from the date of such statement, or such longer period as the parties may agree in writing, the parties shall make good faith efforts to settle the dispute. Such efforts shall include full presentation of the parties' respective positions before their respective designated senior executives.

10.7.2. **Arbitration**. Any controversy or claim arising out of or relating to this Agreement or the validity, inducement, or breach thereof, shall be settled by binding arbitration before three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then pertaining, except where those rules conflict with this provision, in which case this provision controls. The parties hereby consent to the jurisdiction of the federal district court for the district in which the arbitration is held for the enforcement of this provision and the entry of judgment on any award rendered hereunder. Should such court for any reason lack jurisdiction, any court with jurisdiction shall enforce this clause and enter judgment on any award. Each arbitrator shall be an attorney who has at least fifteen (15) years of experience with a law firm or corporate law department of over twenty-five (25) lawyers or was a judge of a court of general jurisdiction. The arbitration shall be held in San Francisco, California or such other place as the parties agree, and in rendering the award the arbitrators must apply the substantive law of California (except where that law conflicts with this clause), except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrators shall be neutral, independent, disinterested, impartial and shall abide by the Code of Ethics for Arbitrators in Commercial Disputes approved by the AAA. Within forty-five (45) days of initiation of arbitration, each party shall select its arbitrator. The third arbitrator shall be mutually agreed upon by the two arbitrators chosen by the parties. In the event that the two arbitrators cannot agree on a third arbitrator within sixty (60) days of their approval then AAA shall appoint an arbitrator who shall be an attorney who has at least fifteen (15) years of experience with a law firm or corporate law department of over twenty-five (25) lawyers or was a judge of a court of general jurisdiction. The parties shall reach agreement upon and thereafter follow procedures assuring that the arbitration will be concluded and the award rendered within no more than eight months from selection of

the arbitrators. Failing such agreement, the AAA will design and the parties will follow procedures that meet such a time schedule. Each party has the right before or, if the arbitrator cannot hear the matter within a acceptable period, during the arbitration to seek and obtain from the appropriate court provisional remedies such as attachment, preliminary injunction, replevin, etc., to avoid irreparable harm, maintain the status quo or preserve the subject matter of the arbitration. Notwithstanding the foregoing, either party may seek an order from a court of competent jurisdiction to restrain the other from violating the nondisclosure provisions of Article 9, the restrictions on use of trademarks in Section 10.3, or the limitations on the use of the Chiron Patent Rights set forth in Article 2.

10.8. **Entire Agreement**. This Agreement and the exhibits hereto constitute the entire agreement between the parties as to the subject matter hereof, and supersede all prior negotiations, representations, agreements and understandings regarding the same.

10.9. **Counterparts**. This Agreement may be executed in counterparts with the same effect as if both parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

10.10. **Relationship of the Parties**. Each party is an independent contractor under this Agreement. Nothing contained herein is intended or is to be construed so as to constitute Chiron and Licensee as partners, agents or joint venturers. Neither party shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement or undertaking with any Third Party.

10.11. **Severability.** If any provision hereof should be held invalid, illegal or unenforceable in any respect, then, to the fullest extent permitted by applicable law, (a) all other provisions hereof shall remain in full force and effect and shall be liberally construed in order to carry out the intent of the parties as nearly as may be possible, and (b) the parties agree to use their best efforts to negotiate a provision, in replacement of the provision held invalid, illegal or unenforceable, that is consistent with applicable law and accomplishes, as nearly as possible, the original intention of the parties with respect thereto. To the fullest extent permitted by applicable law, each party hereby waives any provision of law that would render any provision hereof prohibited or unenforceable in any respect.

10.12. **Exports**. The rights and obligations of the Parties under this Agreement shall be subject in all respects to United States laws and regulations, as shall from time to time govern the license and delivery of technology and products between the United States and other jurisdictions in the Research and Development Territory, including the United States Foreign Assets Control Regulations, Transaction Control Regulations and Expert Control Regulations, as amended, and any successor legislation issued by the Department of Commerce, International Trade Administration, Office of Export Licensing. Without in any way limiting the provisions of this Agreement, each party agrees that, unless prior authorization is obtained from the Office of Export Licensing, it shall not export, re-export, or transship, directly or indirectly, to any country, any of the technical data disclosed to it by the other party if such export would violate the laws of the United States or the regulations of any department or agency of the United States Government.

10.13. **Construction**. Headings and captions are for convenience only and are not be used in the interpretation of this Agreement. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural the singular, the use of any gender shall be applicable to all genders and the word "or" is used in the inclusive sense. The captions of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The term "including" as used herein shall mean including, without limiting the generality of any description preceding such term. The language of this Agreement shall be deemed to be the language mutually chosen by the parties, and no rule of strict construction shall be applied against either party.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date set forth above.

CHIRON CORPORATION **AVI BIOPHARMA, INC.**

By: _____

Name: Craig A. Wheeler

Title: President, Chiron BioPharmaceuticals

By: _____

Name: Alan P. Timmins

Title: President and Chief Operating Officer

EXHIBIT A
Patents Relating to HCV

Patent/ Application No	Country
5,714,596	US
6,074,816	US
5,712,088	US
6,027,729	US
5,863,719	US
5,371,017	US
5,585,258	US
5,597,691	US
6,194,140	US
5,712,145	US
5,885,799	US
5,989,905	US
6,472,180	US
09/884455	US
09/884456	US
10/232643	US
6,096,541	US
5,679,342	US
5,968,775	US
2005/0058982A1	US
6,297,370	US
5,959,092	US
5,372,928	US
10/626879	US
5,922,857	US
60/614955	US
5,851,759	US

EXHIBIT B
Location(s) of Licensee Facilities

AVI BioPharma, Inc.
One SW Columbia, Suite 1105
Portland, OR 97258

AVI BioPharma, Inc.
4575 SW Research Way, Suite 200
Corvallis, Oregon, 97333

EXHIBIT C
Identified Products Resulting from Prior Activity

Lot	Seq ID	Name	Sequence	n	5’End	Status
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
04JA12-J(A1)	0-1-4-116	HCV-REP	GCC AGC CCC CTG ATG GGG GC	20	P003-(GMBS)	Research
04JA12-J(B1)	0-1-4-117	GBV-bAUG	CAG GCA TGT GCT ACG GTC TAC	21	P003-(GMBS)	Research
04JA12-J(C1)	0-1-4-118	GBV-bREP	ACC ACA AAC ACT CCA GTT T	19	P003-(GMBS)	Research
04JA12-J(B2)	0-1-4-115	HCV-AUGpse	GTG CTC ATG GTG CAC GGT CTA C	22	P003-(GMBS)	Research
04FE02-J(B2)	0-1-4-124	3’ end of (-) strand	GAT TGG GGG CGA CAC TCC ACC	21	P003-(GMBS)	Research
04FE09	R&D 0-1-4-119	GBV-bAUG	CAG GCA TGT GCT ACG GTC TAC	21	HO-(CH2CH2O)3-CO	Research
04FE10	R&D 0-1-4-121	GBV-bREP	ACC ACA AAC ACT CCA GTT T	19	HO-(CH2CH2O)3-CO	Research
04MR31-R(C4)	0-1-0-1004	A13	AAA AAA AAA AAA A	13	P003-(GMBS)	Research
04MR31-R(D4)	0-1-0-1005	A17	AAA AAA AAA AAA AAA AA	17	P003-(GMBS)	Research
04AP16-J(D1)	0-1-4-123	bases 9550-9570	GGC TCA CGG ACC TTT CAC AGC	21	P003-(GMBS)	Research
05MY23-R(A1)	NG-05-0413	HCV SL2	GCT CAC GGC CTT TCA CAG C	19	P007	Research
05MY23-R(B1)	NG-05-0414	HCV SL3.2	GGG CAT GAG ACA GGC TGT GAT A	22	P007	Research
05MY23-R(C1)	NG-05-0415	HCV SL3.0	CAG TAT CAG CAC TCT CTG CAG	21	P007	Research
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
05MY23-R(C2)	NG-05-0421	HCV AUG (AVI-4065)	GTG CTC ATG GTG CAC GGT C	19	P007	Research
05MY23-R(D2)	0-1-4-65	HCV AUG (AVI-4065)	GTG CTC ATG GTG CAC GGT C	19	HO-(CH2CH2O)3-CO	Phase I/II
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (the "Agreement") is entered into as of January 26, 2006 (the "Effective Date") by and between AVI BioPharma, Inc., an Oregon corporation having its principal place of business at One SW Columbia, Suite 1105, Portland, Oregon 97258 (the "Company"), and Chiron Corporation, a Delaware corporation having its principal place of business at 4560 Horton Street, Emeryville, California 94608, U.S.A. (the "Purchaser").

BACKGROUND

WHEREAS, Company and Purchaser have entered into that certain License Agreement of even date herewith (the "License Agreement") under which Purchaser agreed to license certain patent rights to Company in exchange for milestone and royalty payments; and

WHEREAS, Company wishes to sell and issue stock to Purchaser in lieu of the first milestone payment due under the License Agreement;

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

1. PURCHASE AND SALE OF STOCK

1.1. Sale and Issuance of Stock. Subject to the terms and conditions of this Agreement, the Purchaser agrees to purchase at the Closing and the Company agrees to sell and issue to the Purchaser at the Closing shares of Company common stock with a fair market value of $500,000 (the "Shares"). The number of shares issued to Purchaser will equal the result obtained by dividing $500,000 by the average daily closing share price of Company common stock, as reported by the Nasdaq National Market ("Nasdaq") for the ten (10) consecutive trading days ending three (3) trading days prior to the date of execution of the License Agreement (the "Issue Price"). The sale and issuance of the Shares will be in lieu of the $500,000 cash payment otherwise due to Purchaser upon IND filing for Company's product candidate, AVI-4065, as set forth in Section 3.1.1(a) of the License Agreement.

1.2. Closing; Delivery. The purchase and sale of the Shares shall take place remotely upon execution of this Agreement (such time and place, the "Closing"). No later than the first business day following the Closing, the Company shall cause its transfer agent to electronically transmit to the Purchaser's or its designee's account with The Depository Trust Company ("DTC") all of the Shares being purchased by the Purchaser at such Closing.

1.3. Price Protection. If Purchaser sells all of the Shares during the 60 days following the Closing (the "Sales Period") and Purchaser sells no more than 75,000 Shares during any calendar week during the Sales Period, Company shall pay to Purchaser funds equal to the excess of $500,000 over the Net Proceeds received by Purchaser from the sale of Shares during the Sales Period, where "Net Proceeds" equals gross proceeds less (a) in the event that Purchaser uses a discount broker of its election in connection with such sale, less the broker

commissions for such sale, or (b) in the event that Purchaser uses a non-discount broker in connection with such sale, the broker commissions that a discount broker would reasonably charge for an equivalent sale. If Purchaser sells some, but not all, of the Shares during the Sales Period and Purchaser sells no more than 75,000 Shares during any calendar week during the Sales Period, Company shall pay to Purchaser funds equal to the excess of the Aggregate Issue Value of the Shares sold during the Sales Period over the Net Proceeds received by Purchaser from such sales, where "Aggregate Issue Value" equals the Issue Price multiplied by the number of Shares sold during the Sales Period.

1.3.1. Notice. Any payment under Section 1.3 shall be due and payable ten (10) days following delivery of written notice from Purchaser to Company of the amount due under Section 1.3 (which notice shall specify in reasonable detail the number of Shares sold and the Net Proceeds from such sales).

1.3.2. Limitation. During the Sales Period, Purchaser agrees not to acquire any shares of Company common stock (or options, warrants or rights to acquire such shares) nor engage in any short selling, hedging or arbitrage activities with respect to Company common stock. If Purchaser sells more than 75,000 Shares during any calendar week or if Purchaser engages in trading activity prohibited under this Section 1.3, Company's obligations under Section 1.3 shall terminate and be of no further effect.

1.4. Profit Sharing. If Purchaser sells all of the Shares during the Sales Period, Purchaser shall retain all Net Proceeds received upon the sale of such Shares, up to $550,000. If Purchaser sells some, but not all, of the Shares during the Sales Period, Purchaser shall retain all Net Proceeds received upon the sale of such Shares during the Sales Period, up to an amount equal to one hundred and ten percent (110%) of the Aggregate Issue Value of the Shares sold during the Sales Period. Any Net Proceeds from the sale of Shares during the Sales Period in excess of one hundred and ten percent (110%) of the Aggregate Issue Value shall be shared equally by Purchaser and Company. Any payment under this Section 1.4 shall be due and payable thirty (30) days after the last day of the Sales Period.

1.5. Transfer of Shares. A transfer of Shares by Purchaser to Purchaser's Affiliate or in connection with a Change of Control shall not be deemed a sale of Shares for purposes of Sections 1.3 or 1.4.

1.5.1. "Affiliate" means, with respect to a party, any corporation, partnership, joint venture or other business arrangement which is controlled by, controlling or under common control with such party, and shall include any direct or indirect beneficial ownership of more than fifty percent (50%) of the voting stock or participating profit interest of such corporation or other business entity.

1.5.2. "Change of Control" means (i) a merger or consolidation of the Purchaser with or into another corporation or other entity, (ii) the sale or transfer of all or substantially all of the properties and assets of the Purchaser, or (iii) any purchase by any individual, entity or group of

affiliated individuals or entities ("Person") of shares of capital stock of the Purchaser (either through a negotiated stock purchase or a tender

for such shares), the effect of which is that such Person that did not beneficially own a majority of the voting power of the outstanding shares of capital stock of the Purchaser immediately prior to such purchase beneficially owns at least a majority of such voting power immediately after such purchase.

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to the Purchaser that the following representations are true and complete at and as of the Effective Date and the Closing. For purposes of these representations and warranties (other than those in Sections 2.2, 2.5, 2.6, 2.7 and 2.9), the term "Company" shall include any subsidiaries of the Company, unless otherwise expressly noted herein.

2.1. Organization, Good Standing, Corporate Power and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Oregon and has all requisite corporate power and authority to carry on its business as presently conducted and as proposed to be conducted. The Company is qualified to do business as a foreign corporation and is in good standing in each state or jurisdiction where such qualification is necessary because of the business it conducts, except where such failure to qualify would not have, and would not be reasonably expected to have, a material adverse effect on the business, assets (including intangible assets), liabilities, financial condition, results of operations, or prospects of the Company ("Material Adverse Effect").

2.2. Authorization. All corporate action required to be taken by the Company's Board of Directors and stockholders in order to authorize the Company to enter into this Agreement, to issue the Shares at the Closing, to register the Shares under the Securities Act, and to list the Shares on Nasdaq has been taken or will be taken prior to the Closing. All action on the part of the officers of the Company necessary for the execution and delivery of this Agreement, the performance of all obligations of the Company under this Agreement to be performed as of the Closing, and the issuance and delivery of the Shares has been taken or will be taken prior to the Closing. This Agreement, when executed and delivered by the Company, shall constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with its respective terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, or (iii) to the extent the indemnification provisions contained in this Agreement may be limited by applicable federal or state securities laws.

2.3. Compliance with Laws and Other Instruments. The Company is not in violation or default (i) of any provision of its Articles of Incorporation or its Bylaws, (ii) of any instrument, judgment, order, writ or decree, (iii) under any note, indenture or mortgage, (iv) under any lease, agreement, contract or purchase order to which it is a party or by which it is bound, or (v) of any provision of federal or state statute, rule or regulation applicable to the Company, except to the extent that such violation or default enumerated above would not have, and would not be reasonably expected to have, a Material Adverse Effect. The execution, delivery and performance of this Agreement and the consummation of the transactions

contemplated by this Agreement will not (A) result in or constitute, with or without the passage of time and/or the giving of notice, any such violation or default, (B) be in conflict with any such provision, instrument, judgment, order, writ, decree, contract or agreement, or (C) constitute, with or without the passage of time and/or the giving of notice, an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, forfeiture or non-renewal of any material permit or license applicable to the Company.

2.4. SEC Filings. Company has timely filed with the Securities and Exchange Commission (the "SEC") all required reports, schedules, forms, statements and other documents, including exhibits and all other information incorporated therein and has filed a shelf registration and prospectus supplement related to the registration of the Shares (collectively, the "SEC Filings"). The SEC Filings (i) at the time filed, complied in all material respects with the applicable requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the Securities Exchange Act of 1934, as amended, as the case may be, and the rules and regulations of the SEC promulgated thereunder, and (ii) did not at the time they were filed (or if amended or superseded by a filing prior to the Effective Date of this Agreement, then on the date of such filing) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. There are no written comments of the staff of the SEC related to the SEC Filings that remain unresolved that would have, or would reasonably be expected to have, a Material Adverse Effect.

2.4.1. Financial Statements. The financial statements included in the SEC Filings (i) complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (ii) were prepared in accordance with generally accepted accounting principles applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto), and (iii) fairly presented in all material respects the consolidated financial position of the Company and its subsidiaries as of the dates thereof, and the results of their operations and cash flows for the periods specified.

2.4.2. No Material Change. Except as identified and described in the SEC Filings filed prior to the Effective Date of this Agreement, there has not been any fact, event, change, development, or circumstance that would have, or would reasonably be expected to have, a Material

Adverse Effect.

2.5. **Governmental Consents and Filings**. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority is required on the part of the Company in connection with the consummation of the transactions contemplated by this Agreement, except for shelf registration filings pursuant to Rule 415 under the Securities Act and applicable state securities laws, which have been made.

2.6. **Valid Issuance of Shares**. The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly

issued, fully paid and non-assessable and free of restrictions on transfer other than liens or encumbrances created by or imposed by the Purchaser. Subject to the filings described in Section 2.7 below, the Shares will be issued in compliance with all applicable federal and state securities laws.

2.7. **Registration of Shares**. The Shares, when issued, sold and delivered to Purchaser under this Agreement, shall be issued pursuant to a prospectus supplement, declared effective by the SEC, to the Company's shelf registration statement on file with the SEC, and as such shall be deemed unrestricted securities under the Securities Act of 1933 and all other applicable federal and state securities laws and shall, upon issuance, sale and delivery, be immediately tradable by Purchaser without any restriction created under any contract, agreement or similar instrument or pursuant to any federal or state statute, rule or regulation.

2.8. **Disclosure**. After giving effect to the filings described in Section 2.7 above and except for the existence of this Agreement and the License Agreement, which will be disclosed in a public announcement in accordance with Section 9.3 of the License Agreement, neither the Company nor any other person acting on its behalf has provided Purchaser or its agents or counsel with any information that constitutes material, non-public information. The Company understands and confirms that the Purchaser will rely on the foregoing representations in effecting sales transactions on Nasdaq in the common stock of the Company during the Sales Period and thereafter.

2.9. **Listing**. The Shares, when issued, sold and delivered to Purchaser under this Agreement, shall be listed on Nasdaq. The Company common stock is validly listed on Nasdaq. Company is in compliance with the listing requirements of Nasdaq and does not reasonably anticipate that its common stock will be delisted by Nasdaq for the foreseeable future. There are no proceedings pending, or to the Company's knowledge threatened, against the Company relating to the continued listing of the Company common stock on Nasdaq. The Company has not received any written notice of, nor to the Company's knowledge is there any basis for, the delisting of the Company common stock from Nasdaq.

3. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Company that the following representations are true and complete as of the date of the Closing, except as otherwise indicated.

3.1. **Authorization**. The Purchaser has full power and authority to enter into this Agreement. This Agreement, when executed and delivered by the Purchaser, shall constitute valid and legally binding obligations of the Purchaser, enforceable against the Purchaser in accordance with its respective terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, or (iii) to the extent the indemnification provisions contained in this Agreement may be limited by applicable federal or state securities laws.

3.2. **Trading**. The Purchaser has not traded in Company stock, or derivative securities, in the 30-day period prior to or during the 10-day period over which the Issue Price is determined.

4. CONDITIONS TO THE PURCHASER'S OBLIGATIONS AT CLOSING

The obligations of the Purchaser to purchase Shares at the Closing are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

4.1. **Representations and Warranties**. The representations and warranties of the Company contained in Section 2 shall be true and correct in all material respects at and as of such Closing, except that any such representations and warranties shall be true and correct in all respects where such representation and warranty is qualified with respect to materiality.

4.2. **Performance**. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by the Company on or before such Closing, including without limitation all filings necessary for the shelf registration of the Shares.

4.3. **Compliance Certificate**. The President of the Company shall deliver to the Purchaser at the Closing a certificate certifying that the conditions specified in Sections 4.1 and 4.2 have been fulfilled.

4.4. **Qualifications**. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance, sale, registration and listing of the Shares pursuant to this Agreement shall be obtained and effective as of such Closing.

4.5. **License Agreement**. The Company and Purchaser shall have executed and delivered the License Agreement.

4.6. **Proceedings and Documents**. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to the Purchaser, and the Purchaser (or its counsel) shall have received all such counterpart original and certified or other copies of such documents as reasonably requested. Such documents may include good standing certificates.

5. CONDITIONS TO THE COMPANY'S OBLIGATIONS AT CLOSING

The obligations of the Company to issue and sell Shares to the Purchaser at the Closing are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

5.1. **Representations and Warranties**. The representations and warranties of the Purchaser contained in Section 3 shall be true and correct in all material respects as of such Closing.

5.2. **License Agreement**. The Company and Purchaser shall have executed and delivered the License Agreement.

6. REMEDIES

If at the Closing, any of the conditions to Purchaser's obligations to close set forth in Section 4 (other than Section 4.5) are not satisfied, or waived in the sole discretion of Purchaser, Company shall make a $500,000 cash payment to Purchaser, in lieu of issuing the Shares pursuant to Section 1.1. Any such payment is due and payable at the Closing, and any amounts paid after the date of the Closing shall bear interest in accordance with Section 3.2.3 of the License Agreement.

7. INDEMNIFICATION

Company shall indemnify, defend and hold harmless Purchaser and its affiliates and the officers, directors, employees, agents and representatives of Purchaser and its affiliates from and against any and all claims, threatened claims, damages, losses, costs (including reasonable attorneys' and experts' fees and expenses), suits, proceedings or liabilities of any kind arising out of acts or omissions that constitute a breach of this Agreement by the Company, including without limitation a breach of any of the representations and warranties of the Company in Section 2. Company shall have the right to control the defense, negotiation and settlement of any claim for which it has the obligation to provide indemnification, and Purchaser shall cooperate with and provide reasonably requested assistance to the Company in the defense of any such claim.

8. GENERAL

8.1. **Survival of Warranties**. Unless otherwise set forth in this Agreement, the representations and warranties of the Company and the Purchaser contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation or knowledge of the subject matter thereof made by or on behalf of the Purchaser or the Company.

8.2. **Assignment**. Company shall not assign any of its rights or obligations under this Agreement without the prior written consent of the Purchaser. Purchaser may, without Company's consent, assign any or all of its rights or obligations under this Agreement to any third party, including without limitation to an Affiliate of Purchaser, provided however that such third party agrees to be bound by the terms of this Agreement.

8.3. **Successors and Assigns**. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

8.4. **Waivers and Modifications**. The failure of any party to insist on the performance of any obligation hereunder shall not be deemed to be a waiver of such obligation.

Waiver of any breach of any provision hereof shall not be deemed to be a waiver of any other breach of such provision or any other provision. No waiver, modification, release or amendment of any obligation under or provision of this Agreement shall be valid or effective unless in writing and signed by all

parties hereto.

8.5. **Notices**. All notices or other communications required or permitted hereunder shall be in writing and delivered personally or by facsimile transmission (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), mailed by registered or certified mail (return receipt requested), postage prepaid, or sent by nationally-recognized overnight courier service, addressed as follows

If to Purchaser:

Chiron Corporation
4560 Horton Street
Emeryville, California 94068-2916
Attention: Treasury
Fax: (510) 923-8373
Copy to: Office of the General Counsel
Fax: (510) 654-5360

If to Company:

AVI BioPharma, Inc.
One SW Columbia, Suite 1105
Portland, Oregon 97258
Attention: President
Fax: (503) 227-0751
Copy to: Vice President, Business Development
Fax: (503) 227-0751

or to such other address or facsimile number as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. Any such communication shall be deemed to have been given (a) when delivered, if personally delivered or sent by facsimile transmission on a business day; (b) on the business day after dispatch, if sent by nationally-recognized overnight courier; and (c) on the third (3rd) business day following the date of mailing, if sent by mail. In addition to any notices required or permitted hereunder, the parties shall use the contact information below for purposes of providing payment or accounting information set forth in Sections 1.3 or 1.4 of this Agreement:

If to Purchaser:

Chiron Corporation
4560 Horton Street
Emeryville, California 94068-2916
Attention: Treasury
Tel: (510) 923-2783
Fax: (510) 923-8373

If to Company:

AVI BioPharma, Inc.
4575 SW Research Way, Suite 200
Corvallis, Oregon 97333
Attn: Chief Financial Officer
Tel: (541) 753-3635

8.6. **Choice of Law**. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions thereof.

8.7. **Dispute Resolution**. Any dispute arising out of or in connection with this Agreement shall be resolved by the parties in the following manner:

8.7.1. **Informal Settlement**. Either party may initiate resolution of such controversy by providing to the other party a brief and concise statement of the initiating party's claims, together with relevant facts supporting them, and referring to this Section 9. For a period of sixty (60) days from the date of such statement, or such longer period as the parties may agree in writing, the parties shall make good faith efforts to settle the dispute. Such efforts shall include full presentation of the parties' respective positions before their respective designated senior executives.

8.7.2. **Arbitration**. Any controversy or claim arising out of or relating to this Agreement or the validity, inducement, or breach thereof, shall be settled by binding arbitration before three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then pertaining, except where those rules conflict with this provision, in which case this provision controls. The parties hereby consent to the jurisdiction of the federal district court for the district in which the arbitration is held for the enforcement of this provision and the entry of judgment on any award rendered hereunder. Should such court for any reason lack jurisdiction, any court with jurisdiction shall enforce this clause and enter judgment on any award. Each arbitrator shall be an attorney who has at least fifteen (15) years of experience with a law firm or corporate law department of over twenty-five (25) lawyers or was a judge of a court of general jurisdiction. The arbitration shall be held in San Francisco, California or such other place as the parties agree, and in rendering the award the arbitrators must apply

the substantive law of California (except where that law conflicts with this clause), except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrators shall be neutral, independent, disinterested, impartial and shall abide by the Code of Ethics for Arbitrators in Commercial Disputes approved by the AAA. Within forty-five (45) days of initiation of arbitration, each party shall select its arbitrator. The third arbitrator shall be mutually agreed upon by the two arbitrators chosen by the parties. In the event that the two arbitrators cannot agree on a third arbitrator within sixty (60) days of their approval then AAA shall appoint an arbitrator who shall be an

attorney who has at least fifteen (15) years of experience with a law firm or corporate law department of over twenty-five (25) lawyers or was a judge of a court of general jurisdiction. The parties shall reach agreement upon and thereafter follow procedures assuring that the arbitration will be concluded and the award rendered within no more than eight (8) months from selection of the arbitrators. Failing such agreement, the AAA will design and the parties will follow procedures that meet such a time schedule. Each party has the right before or, if the arbitrator cannot hear the matter within a acceptable period, during the arbitration to seek and obtain from the appropriate court provisional remedies such as attachment, preliminary injunction, replevin, etc., to avoid irreparable harm, maintain the status quo or preserve the subject matter of the arbitration.

8.8. **Entire Agreement**. This Agreement and the License Agreement together constitute the entire agreement between the parties as to the subject matter hereof, and supersede all prior negotiations, representations, agreements and understandings regarding the same.

8.9. **Counterparts**. This Agreement may be executed in counterparts with the same effect as if both parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

8.10. **Severability**. If any provision hereof should be held invalid, illegal or unenforceable in any respect, then, to the fullest extent permitted by applicable law, (a) all other provisions hereof shall remain in full force and effect and shall be liberally construed in order to carry out the intent of the parties as nearly as may be possible, and (b) the parties agree to use their best efforts to negotiate a provision, in replacement of the provision held invalid, illegal or unenforceable, that is consistent with applicable law and accomplishes, as nearly as possible, the original intention of the parties with respect thereto. To the fullest extent permitted by applicable law, each party hereby waives any provision of law that would render any provision hereof prohibited or unenforceable in any respect.

8.11. **Construction**. Headings and captions used in this Agreement are for convenience only, in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement, and are not to be used in the interpretation of this Agreement. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural shall include the singular, the use of any gender shall be applicable to all genders and the word “or” is used in the inclusive sense. The term “including” as used herein shall mean including, without limiting the generality of any description preceding such term. The language of this Agreement shall be deemed to be the language mutually chosen by the parties, and no rule of strict construction shall be applied against either party.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date set forth above.

CHIRON CORPORATION	**AVI BIOPHARMA, INC.**
By: _____	By: _____
Name: Craig A. Wheeler	Name: Alan P. Timmins
Title: President, Chiron BioPharmaceuticals	Title: President and Chief Operating Officer

EXHIBIT 31.1

CERTIFICATION PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Denis R. Burger, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AVI BioPharma, Inc. (the "Registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15 (f) and 15d-15 (f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles; and

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2006

By: /s/ Denis R. Burger
Denis R. Burger,
Chief Executive Officer and Chairman of the Board
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Mark M. Webber, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AVI BioPharma, Inc. (the "Registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15 (f) and 15d-15 (f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles; and

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2006

By: /s/ Mark M. Webber
Mark M. Webber,
Chief Financial Officer and Chief Information Officer
(Principal Financial and Accounting Officer)

EXHIBIT 32

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

In connection with the Quarterly Report of AVI BioPharma, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Denis R. Burger, as Chief Executive Officer of the Company, and Mark M. Webber, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge,:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchan ge Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Denis R. Burger

Denis R. Burger
Chairman and Chief Executive Officer
AVI BioPharma, Inc.
May 10, 2006

/s/ Mark M. Webber

Mark M. Webber
Chief Financial Officer and Chief Information Officer
AVI BioPharma, Inc.
May 10, 2006

This certification accompanies the Report pursuant to § 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of §18 of the Securities Exchange Act of 1934, as amended.

See also the certification pursuant to Sec. 302 of the Sarbanes-Oxley Act of 2002, which is also attached to this Report.

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to AVI BioPharma, Inc. and will be retained by AVI BioPharma, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.