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As filed with the Securities and Exchange Commission on November 1, 2010

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form S-1
REGISTRATION STATEMENT

UNDER
THE SECURITIES ACT OF 1933

PACIRA PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	2834	51-0619477
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code No.)	(I.R.S. Employer Identification No.)

5 Sylvan Way, Suite 125
Parsippany, New Jersey 07054
(973) 254-3560

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

David M. Stack
President and Chief Executive Officer
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(973) 254-3560

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this form are offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act") please check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b2 of the Exchange Act.

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

CALCULATION OF REGISTRATION FEE

Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price[1]	Amount of Registration Fee[2]
Common Stock, par value $0.001 per share	$86,250,000	$6,150

(1) Estimated solely for the purpose of computing the registration fee in accordance with Rule 457(o) under the Securities Act.
(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in

accordance with Section 8(a) of the Securities Act or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

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The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, dated November 1, 2010

PROSPECTUS

Shares

Common Stock

This is the initial public offering of the common stock of Pacira Pharmaceuticals, Inc. We are offering shares of our common stock. No public market currently exists for our common stock.

We have applied to list our common stock on The NASDAQ Global Market under the symbol "PCRX."

We anticipate that the initial public offering price will be between $ and $ per share.

Investing in our common stock involves risks. See "Risk Factors" beginning on page 9 of this prospectus.

	Per share	Total
Price to the public	$	$
Underwriting discounts and commissions	$	$
Proceeds to us (before expenses)	$	$

We have granted the underwriters the option to purchase additional shares of common stock on the same terms and conditions set forth above if the underwriters sell more than shares of common stock in this offering.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed on the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares on or about , .

Barclays Capital **Piper Jaffray**

Wedbush PacGrow Life Sciences **Brean Murray, Carret & Co.**

Prospectus dated , .

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You should rely only on the information contained in this prospectus and any free writing prospectus prepared by or on behalf of us or to which we have referred you. We have not authorized anyone to provide you with information that is different. We are offering to sell shares of our common stock, and seeking offers to buy shares of our common stock, only in jurisdictions where offers and sales are permitted. The information in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of our common stock.

For investors outside the United States: neither we nor any of the underwriters have taken any action to permit a public offering of the shares of our common stock or the possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than the United States. You are required to inform yourselves about and to observe any restrictions relating to this offering and the distribution of this prospectus.

We obtained the industry, market and competitive position data in this prospectus from our own internal estimates and research as well as from industry and general publications and research, surveys and studies conducted by third parties. Industry publications, studies and surveys generally state that they have been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus. You should read the following summary together with the more detailed information appearing in this prospectus, including our consolidated financial statements and related notes, and the risk factors beginning on page 9, before deciding whether to purchase shares of our common stock. Unless the context otherwise requires, we use the terms "Pacira," "our company," we," "us" and "our" in this prospectus to refer to Pacira Pharmaceuticals, Inc. and its subsidiaries.

Overview

We are an emerging specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products, based on our proprietary DepoFoam drug delivery technology, for use in hospitals and ambulatory surgery centers. In September 2010, we filed a New Drug Application, or NDA, for our lead product candidate, EXPAREL, a long-acting bupivacaine (anesthetic/analgesic) product for postsurgical pain management. Our clinical data demonstrates that EXPAREL provides analgesia for up to 72 hours post-surgery, compared with seven hours or less for bupivacaine.

We believe EXPAREL will address a significant unmet medical need for a long-acting non-opioid postsurgical analgesic, resulting in simplified postsurgical pain management and reduced opioid consumption, leading to improved patient outcomes and enhanced hospital economics. We estimate there are approximately 24 million surgical procedures performed annually in the United States where EXPAREL could be used. EXPAREL will be launched by certain members of our management team who have successfully launched multiple products in the hospital market.

EXPAREL consists of bupivacaine encapsulated in DepoFoam, both of which are used in FDA-approved products. DepoFoam, our extended release drug delivery technology, is the basis for our two FDA-approved commercial products, DepoCyt(e) and DepoDur, which we manufacture for our commercial partners. DepoFoam-based products have been manufactured for over a decade and have an extensive safety record and history of regulatory approvals in the United States, European countries and other territories. Bupivacaine, a well-characterized, FDA-approved anesthetic/analgesic, has an established safety profile and over 20 years of use in the United States.

EXPAREL has demonstrated efficacy and safety in two multicenter, randomized, double-blind, placebo-controlled, pivotal Phase 3 clinical trials in patients undergoing soft tissue surgery (hemorrhoidectomy) and orthopedic surgery (bunionectomy). In our pivotal Phase 3 hemorrhoidectomy clinical trial, EXPAREL achieved its primary endpoint by providing a statistically significant 30% reduction in pain, as measured by the area under the curve, or AUC, of the NRS-R pain scores, a commonly used patient reported measurement of pain, at 72 hours and all additional time points measured up to 72 hours. In addition, EXPAREL achieved its secondary endpoints in reducing the use of opioid rescue medication, including 45% less opioid usage compared to the placebo treatment group at 72 hours. In our pivotal Phase 3 bunionectomy clinical trial, EXPAREL also met its primary endpoint, demonstrating a statistically significant reduction in pain at 24 hours, and this reduction was also statistically significant at 36 hours. The trial also met secondary endpoints related to pain measurement and the use of opioid rescue medication. Overall, EXPAREL has demonstrated safety in over 1,300 subjects.

We are initially seeking FDA approval of EXPAREL for postsurgical analgesia by local administration into the surgical wound, or infiltration, a procedure commonly employing bupivacaine. Under the Prescription Drug User Fee Act, or PDUFA, guidelines, the FDA has a goal of ten months from the date of NDA filing to make a decision regarding the approval of our filing. We are also pursuing several additional indications for EXPAREL and expect to submit a supplemental NDA, or sNDA, for nerve block and epidural administration.

Our current product portfolio and product candidate pipeline is summarized in the table below:

Product(s) / Product Candidate(s)	Primary Indication(s)	Status	Commercialization Rights
EXPAREL	Postsurgical analgesia by infiltration	NDA (submitted)	Pacira (worldwide)
	Postsurgical analgesia by nerve block	Phase 2/3 (planning)	Pacira (worldwide)
	Postsurgical analgesia by epidural administration	Phase 1 (completed)	Pacira (worldwide)
DepoCyt(e)	Lymphomatous meningitis	Marketed	Sigma-Tau Pharmaceuticals Mundipharma International
DepoDur	Post-operative pain	Marketed	EKR Therapeutics Flynn Pharmaceuticals
DepoNSAID	Acute pain	Preclinical	Pacira (worldwide)
DepoMethotrexate	Rheumatoid arthritis Oncology	Preclinical Preclinical	Pacira (worldwide) Pacira (worldwide)

Limitations of Current Therapies for Postsurgical Pain

Substantially all surgical patients experience postsurgical pain, with approximately 50% of surgical patients reporting inadequate pain relief according to certain epidemiological studies. Local anesthetics, such as bupivacaine, are usually effective for seven hours or less, and opioids, the mainstay of postsurgical pain management, have a range of potentially severe side effects. The use of opioid-based patient controlled analgesia, or PCA, systems further adds cost and complication to the process of postsurgical pain management.

Non-steroidal anti-inflammatory drugs, or NSAIDS, are commonly used in an attempt to minimize opioid usage, but increase the risk of bleeding and gastrointestinal and renal complications. Elastomeric bags, which are often used to extend the delivery of bupivacaine using a catheter system, are clumsy, difficult to use and may introduce catheter-related issues, including infection.

EXPAREL

Based on our clinical trial data, EXPAREL provides continuous and extended postsurgical analgesia for up to 72 hours and reduces the consumption of supplemental opioid medications. We believe this will simplify postsurgical pain management, minimize breakthrough episodes of pain and result in improved patient outcomes and enhanced hospital economics.

Our EXPAREL strategy has four principal elements:

Replace the use of bupivacaine in postsurgical infiltration. We believe EXPAREL:

- extends postsurgical analgesia for up to 72 hours, from seven hours or less;
- utilizes existing postsurgical infiltration administration techniques;
- dilutes easily with saline to reach desired volume;
- is a ready-to-use formulation; and
- facilitates treatment of both small and large surgical wounds.

Become the foundation of a postsurgical pain management regimen in order to reduce and delay opioid usage. We believe EXPAREL:

- significantly delays and reduces opioid usage while improving postsurgical pain management as demonstrated in our Phase 3 hemorrhoidectomy trial, in which EXPAREL demonstrated the following:
  - delayed first opioid usage to approximately 14 hours post-surgery, compared to approximately one hour for placebo;
  - significantly increased percentage of patients requiring no opioid rescue medication through 72 hours post-surgery, to 28% compared to 10% for placebo;
  - 45% less opioid usage at 72 hours post-surgery compared to placebo; and
  - increased percentage of patients who are pain free at 24 hours post-surgery compared to placebo; and
- may reduce hospital cost and staff monitoring of PCA systems.

Improve patient satisfaction. We believe EXPAREL:

- reduces the need for patients to be constrained by elastomeric bags and PCA systems, which are clumsy, difficult to use and may introduce catheter-related issues, including infection;
- promotes maintenance of early postsurgical pain management, thereby reducing the time spent in the intensive care unit; and
- promotes early ambulation, which potentially reduces the risk of life-threatening blood clots, and allows quicker return of bowel function, thereby leading to a faster switch to oral nutrition and medicine, and thus a faster discharge from the hospital.

Develop and seek approval of EXPAREL for nerve block and epidural administration. We believe these additional indications for EXPAREL:

- present a low-risk, low-cost opportunity for clinical development; and
- will enable us to fully leverage our manufacturing and sales infrastructure.

Manufacturing and Intellectual Property

We manufacture all our DepoFoam-based products, including commercial supplies of DepoCyt(e) and DepoDur for our commercial partners. We currently manufacture clinical supplies of EXPAREL and intend to manufacture and commercialize EXPAREL upon its approval.

We have developed significant know-how regarding our manufacturing process and protect our technology through trade secrets and patents. We have over 15 families of patents and patent applications relating to various aspects of DepoFoam delivery technology. Issued U.S. patents protect the composition of EXPAREL and methods for modifying its rate of drug release. We have also submitted additional patent applications related to the composition of, and manufacturing process for, EXPAREL. Recently, we filed a provisional patent relating to a new process to manufacture EXPAREL and other DepoFoam-based products, which, if granted, could prevent others from using this process until 2031.

Our Strategy

Our goal is to be a leading specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products principally for use in hospitals and ambulatory surgery centers. We plan to achieve this by:

- obtaining FDA approval for EXPAREL in the United States for postsurgical analgesia using local infiltration;
- building a streamlined commercial organization concentrating on major hospitals and ambulatory surgery centers in the United States and targeting surgeons, anesthesiologists, pharmacists and nurses;
- working directly with managed care payers, quality improvement organizations, key opinion leaders, or KOLs, in the field of postsurgical pain management and leading influence hospitals with registry programs to demonstrate the economic benefits of EXPAREL;
- securing commercial partnerships for EXPAREL in regions outside of the United States;
- obtaining FDA approval for nerve block and epidural administration indications for EXPAREL;
- manufacturing all our DepoFoam-based products, including EXPAREL, DepoCyt(e) and DepoDur, in our current Good Manufacturing Practices, or cGMP, compliant facilities; and
- continuing to expand our marketed product portfolio through development of additional DepoFoam-based hospital products utilizing a 505(b)(2) strategy.

Risk Factors

Our business is subject to a number of risks of which you should be aware before making an investment decision. These risks are discussed more fully in the "Risk Factors" section of this prospectus immediately following this prospectus summary. These risks include the following:

- We are dependent on the success of our lead product candidate, EXPAREL, and cannot guarantee that this product candidate will receive regulatory approval or be successfully commercialized.
- If we are unable to establish effective marketing and sales capabilities or enter into agreements with third parties to market and sell our product candidates, if they are approved, we may be unable to generate product revenues.
- If EXPAREL is approved and we fail to manufacture the product in sufficient quantities and at acceptable quality and pricing levels, or to fully comply with cGMP regulations, we may face delays in the commercialization of this product candidate or be unable to meet market demand, and may lose potential revenues.
- We may not be able to manage our business effectively if we are unable to attract and retain key personnel.
- Our independent registered public accounting firm has expressed substantial doubt about our ability to continue as a going concern, which may hinder our ability to obtain future financing.

Corporate History and Information

We were incorporated in Delaware under the name Blue Acquisition Corp. in December 2006 and changed our name to Pacira, Inc. in June 2007. In October 2010, we changed our name to Pacira Pharmaceuticals, Inc.

Pacira Pharmaceuticals, Inc. is the holding company for our California operating subsidiary of the same name, which we refer to as PPI-California. On March 24, 2007, MPM Capital, Sanderling Ventures, OrbiMed

Advisors, HBM BioVentures, the Foundation for Research and their co-investors, through Pacira Pharmaceuticals, Inc., acquired PPI-California, from SkyePharma Holding, Inc., which we refer to as the Acquisition. PPI-California was known as SkyePharma, Inc. prior to the Acquisition. In this prospectus, the term Predecessor refers to SkyePharma, Inc. prior to March 24, 2007, or the Acquisition Date, and the term Successor refers to Pacira Pharmaceuticals, Inc. and its consolidated subsidiaries.

Our principal executive offices are located at 5 Sylvan Way, Suite 125, Parsippany, New Jersey 07054, and our telephone number is (973) 254-3560. Our website address is www.pacira.com. Information contained on our website is not incorporated by reference into this prospectus, and you should not consider information contained on our website to be part of this prospectus or in deciding whether to purchase shares of our common stock.

Pacira®, DepoFoam®, DepoCyt® (U.S. registration), DepoCyte® (EU registration), DepoDur®, EXPAREL™, the Pacira logo and other trademarks or service marks of Pacira appearing in this prospectus are the property of Pacira. This prospectus contains additional trade names, trademarks and service marks of other companies. In the prospectus, references to DepoCyt(e) mean DepoCyt when discussed in the context of the United States and DepoCyte when discussed in the context of Europe.

The Offering

Common stock offered by Pacira	shares
Common stock to be outstanding after this offering	shares (shares in the event the underwriters elect to exercise their option to purchase additional shares from us in full)
Use of proceeds	We estimate that the net proceeds to us from this offering, after deducting estimated underwriting discounts and commissions and offering expenses, will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares from us in full. We intend to use the net proceeds from this offering for the planned manufacture and commercialization of EXPAREL in the United States, to continue the development of EXPAREL for additional indications, if it is approved by the FDA, and the balance, if any, for working capital and other general corporate purposes. See "Use of Proceeds."
Risk factors	You should read the "Risk Factors" section and other information included in this prospectus for a discussion of factors to consider carefully before deciding to invest in shares of our common stock.
Proposed NASDAQ Global Market symbol	"PCRX"

The number of shares of our common stock to be outstanding after this offering is based on the number of shares of common stock outstanding as of September 30, 2010, and excludes:

- 1,950,000 shares of common stock issuable upon the exercise of warrants outstanding as of September 30, 2010, at a weighted average exercise price of $0.38 per share;
- 16,182,011 shares of common stock issuable upon the exercise of stock options outstanding as of September 30, 2010, at a weighted average exercise price of $0.15 per share; and
- 2,430,197 shares of common stock available for future issuance under our equity compensation plans as of September 30, 2010.

Except as otherwise noted, all information in this prospectus:

- gives effect to a one-for- reverse split of our common stock to be effected prior to the effective date of the registration statement of which this prospectus is a part;
- assumes no exercise of outstanding options or warrants;
- assumes no exercise by the underwriters of their option to purchase additional shares of common stock to cover over-allotments;
- gives effect to the automatic conversion of each outstanding share of our Series A convertible preferred stock into one share of our common stock upon the completion of this offering;
- gives effect to the issuance of 35,112,715 shares of common stock upon the conversion of certain outstanding secured and unsecured notes and accrued interest thereon held by certain of our stockholders; and
- gives effect to the restatement of our certificate of incorporation and amendment and restatement of our bylaws prior to the effective date of the registration statement of which this prospectus is a part.

Summary Consolidated Financial Data

The following tables summarize our consolidated financial data as of the dates and for the periods indicated. You should read this data together with our financial statements and related notes included elsewhere in this prospectus and the information under "Selected Consolidated Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

- The consolidated financial data as of December 31, 2008 and 2009, and for the years ended December 31, 2007, 2008 and 2009 have been derived from our consolidated financial statements included elsewhere in this prospectus, which have been audited by J.H. Cohn LLP, an independent registered public accounting firm.
- The consolidated financial data as of June 30, 2009 and 2010, and for the six months ended June 30, 2009 and 2010, have been derived from our unaudited consolidated financial statements included elsewhere in this prospectus.
- The consolidated financial data as of December 31, 2007 have been derived from our consolidated financial statements not contained herein.
- The consolidated financial data as of March 23, 2007, for the period from January 1, 2007 through March 23, 2007 has been derived from unaudited consolidated financial statements of the Predecessor, SkyePharma, Inc., not included in this prospectus.

The unaudited consolidated financial data include, in the opinion of our management, all adjustments, consisting only of normal recurring adjustments, that are necessary for a fair presentation of our financial position and results of operations for these periods. Our historical results for any prior period are not necessarily indicative of results to be expected in any future period, and our results for any interim period are not necessarily indicative of results to be expected for a full fiscal year.

The term Predecessor refers to SkyePharma, Inc. prior to March 24, 2007, and the term Successor refers to Pacira Pharmaceuticals, Inc. and its consolidated subsidiaries. Our results of operations for the year ended December 31, 2007, while representing a full year for Pacira Pharmaceuticals, Inc., do not reflect the operations of PPI-California until March 24, 2007, after the Acquisition Date. We have presented the Predecessor for the period from January 1, 2007 through March 23, 2007, as we believe it best presents the continuity of operations of the Successor prior to the Acquisition. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations" for a discussion of the presentation of our results for the year ended December 31, 2007.

The pro forma balance sheet data give effect to the conversion of all outstanding shares of our Series A convertible preferred stock into common stock and the conversion of $40.0 million aggregate principal amount of secured and unsecured notes and accrued interest thereon held by certain of our stockholders into common stock, as of September 30, 2010. The pro forma as adjusted balance sheet data also give effect to our sale of shares of common stock offered by this prospectus at an assumed initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions and offering expenses payable by us.

	Predecessor	Successor				
	January 1 to March 23	Year Ended December 31,			Six Months Ended June 30,	
	2007	2007	2008	2009	2009	2010
	(unaudited)		(audited)		(unaudited)	(unaudited)
			(in thousands, except share and per share data)			
Consolidated Statement of Operations Data:						
Revenues	$ 1,427	$ 8,341	$ 13,925	$ 15,006	$ 6,962	$ 7,839
Operating expenses:						
Cost of revenues	2,825	9,492	17,463	12,301	6,104	6,595
Research and development	3,251	21,247	34,067	27,042	13,147	9,775
Selling, general and administrative	2,632	3,588	7,758	4,211	2,329	1,712
Acquired in-process research and development	—	12,400	—	—	—	—
Total operating expenses	8,708	46,727	59,288	43,554	21,580	18,082
(Loss) from operations	(7,281)	(38,386)	(45,363)	(28,548)	(14,618)	(10,243)
Other income (expense)	(13)	16	(224)	367	(29)	68
Interest:						
Interest income	4	491	235	77	43	73
Interest (expense)	(2,265)	—	—	(1,723)	(519)	(1,499)
Royalty interest obligation	(1,486)	2,711	2,817	(1,318)	(1,021)	(607)
Total interest income (expense)	(3,747)	3,202	3,052	(2,964)	(1,497)	(2,033)
Net income (loss)	$(11,041)	$ (35,168)	$ (42,535)	$ (31,145)	$ (16,144)	$ (12,208)
Net (loss) per share applicable to common stockholders—basic and diluted		$ (7.03)	$ (7.49)	$ (5.05)	$ (2.62)	$ (1.98)
Weighted average number of common shares used in net (loss) per share calculation—basic and diluted		5,000,000	5,682,481	6,163,884	6,158,644	6,177,742
Pro forma net (loss) per share—basic and diluted (unaudited) (1)				$ (0.34)		$ (0.12)
Shares used in computing pro forma loss per share —basic and diluted (unaudited)				91,902,490		103,999,007

(1) Pro forma basic and diluted net loss per share is calculated assuming the conversion of all of our outstanding shares of Series A convertible preferred stock and our secured and unsecured notes and accrued interest thereon into common stock at the beginning of the period or at the original date of issuance, if later.

	As of June 30, 2010		
	Actual	Pro forma	Pro forma as adjusted
		(unaudited)	
Consolidated Balance Sheet Data:		(in thousands)	
Cash and cash equivalents	$ 12,353	$ 22,265	
Working capital	4,790	14,702	
Total assets	50,240	60,152	
Total long-term debt	46,383	14,731	
Convertible preferred stock, par value	68	—	
Common stock, par value	6	109	
Accumulated deficit	(121,056)	(121,056)	
Total stockholders' deficit	(34,231)	(661)	

RISK FACTORS

Investing in our common stock involves a high degree of risk. Before you decide to invest in our common stock, you should consider carefully the risks described below, together with the other information contained in this prospectus, including our financial statements and the related notes appearing at the end of this prospectus. We believe the risks described below are the risks that are material to us as of the date of this prospectus. If any of the following risks actually occur, our business, financial condition, results of operations and future growth prospects would likely be materially and adversely affected. In these circumstances, the market price of our common stock could decline, and you may lose all or part of your investment.

Risks Related to the Development and Commercialization of our Product Candidates

We are dependent on the success of our lead product candidate, EXPAREL, and cannot guarantee that this product candidate will receive regulatory approval or be successfully commercialized.

We have invested a significant portion of our efforts and financial resources in the development of our most advanced product candidate, EXPAREL. Our ability to generate revenues in the near term is substantially dependent on our ability to develop and commercialize EXPAREL. In September 2010, we submitted a new drug application, or NDA, with the U.S. Food and Drug Administration, or FDA, seeking approval to commercialize EXPAREL for treatment of postsurgical pain. We cannot commercialize EXPAREL prior to obtaining FDA approval. Even though EXPAREL has completed two pivotal Phase 3 clinical trials with positive results, EXPAREL is still, nonetheless, susceptible to the risks of failure inherent at any stage of product development, including the appearance of unexpected adverse events, the FDA's determination that EXPAREL is not approvable or failure to achieve its primary endpoints in subsequent clinical trials. For example, in 2009, we completed two Phase 3 clinical trials of EXPAREL that did not meet their primary endpoints.

If we do not receive FDA approval for, and commercialize, EXPAREL, we will not be able to generate revenue from EXPAREL in the foreseeable future, or at all. Any significant delays in obtaining approval for and commercializing EXPAREL will have a substantial adverse impact on our business and financial condition.

If approved, our ability to generate revenues from EXPAREL will depend on our ability to:

- create market demand for EXPAREL through our own marketing and sales activities, and any other arrangements to promote this product candidate we may later establish;
- hire, train and deploy a sales force to commercialize EXPAREL in the United States;
- manufacture EXPAREL in sufficient quantities and at an acceptable quality and at an acceptable manufacturing cost to meet commercial demand at launch and thereafter;
- establish and maintain agreements with wholesalers, distributors and group purchasing organizations on commercially reasonable terms;
- create partnerships with, or offer licenses to, third parties to promote and sell EXPAREL outside the United States; and
- maintain patent and trade secret protection and regulatory exclusivity for EXPAREL.

We face significant competition from other pharmaceutical and biotechnology companies. Our operating results will suffer if we fail to compete effectively.

The pharmaceutical and biotechnology industries are intensely competitive and subject to rapid and significant technological change. Our major competitors include organizations such as major multinational pharmaceutical companies, established biotechnology companies and specialty pharmaceutical and generic drug companies. Many of our competitors have greater financial and other resources than we have, such as larger research and development staff, more extensive marketing, distribution, sales and manufacturing organizations

and experience, more extensive clinical trial and regulatory experience, expertise in prosecution of intellectual property rights and access to development resources like personnel generally and technology. As a result, these companies may obtain regulatory approval more rapidly than we are able to and may be more effective in selling and marketing their products. Smaller or early stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large, established companies. Our competitors may succeed in developing, acquiring or licensing on an exclusive basis technologies and drug products that are more effective or less costly than EXPAREL or any other product candidate that we are currently developing or that we may develop, which could render our products obsolete and noncompetitive or significantly harm the commercial opportunity for EXPAREL.

As a result of these factors, our competitors may obtain regulatory approval of their products more rapidly than we are able to or may obtain patent protection or other intellectual property rights that limit our ability to develop or commercialize EXPAREL. Our competitors may also develop drugs that are more effective, useful or less costly than ours and may be more successful than us in manufacturing and marketing their products.

EXPAREL will compete with well-established products with similar indications. Competing products available for postsurgical pain management include opioids such as morphine, fentanyl, meperidine and hydromorphone, each of which is available generically from several manufacturers, and several of which are available as proprietary products using novel delivery systems. Ketorolac, an injectable non-steroidal anti-inflammatory drug, or NSAID, is also available generically in the United States from several manufacturers, and Caldolor (ibuprofen for injection), an NSAID, has been approved by the FDA for pain management and fever in adults. In addition, EXPAREL will compete with non-opioid products such as bupivacaine, Marcaine, ropivacaine and other anesthetics/analgesics, all of which are also used in the treatment of postsurgical pain and are available as either oral tablets, injectable dosage forms or administered using novel delivery systems. Additional products may be developed for the treatment of acute pain, including new injectable NSAIDs, novel opioids, new formulations of currently available opioids and NSAIDS, long-acting local anesthetics and new chemical entities as well as alternative delivery forms of various opioids and NSAIDs.

We also expect to compete with an extended release bupivacaine product in development by Durect Corporation which has been licensed to Hospira in North America (Posidur) and to Nycomed for Europe (Optesia).

We also anticipate that EXPAREL will compete with elastomeric bag/catheter devices intended to provide bupivacaine over several days. I-FLOW Corporation (acquired by Kimberly-Clark Corporation in 2009) has marketed these medical devices in the United States since 2004.

If we are unable to establish effective marketing and sales capabilities or enter into agreements with third parties to market and sell our product candidates, if they are approved, we may be unable to generate product revenues.

We currently do not have a commercial infrastructure for the marketing, sale and distribution of pharmaceutical products. In order to commercialize our products, we must build our marketing, sales and distribution capabilities or make arrangements with third parties to perform these services. If EXPAREL is approved by the FDA, we plan to build a commercial infrastructure to launch EXPAREL in the United States, including a specialty sales force of approximately 100 people within three years from launch. We may seek to further penetrate the U.S. market in the future by expanding our sales force or through collaborations with other pharmaceutical or biotechnology companies or third-party manufacturing and sales organizations. We may also seek to commercialize EXPAREL outside the United States, although we currently plan to do so with a marketing and sales collaborator and not with our own sales force.

The establishment and development of our own sales force and related compliance plans to market any products we may develop will be expensive and time consuming and could delay any product launch, and we

may not be able to successfully develop this capability. We, or our future collaborators, will have to compete with other pharmaceutical and biotechnology companies to recruit, hire, train and retain marketing and sales personnel. In the event we are unable to develop a marketing and sales infrastructure, we would not be able to commercialize EXPAREL or any other product candidates that we develop, which would limit our ability to generate product revenues.

Although our current plan is to hire most of our sales and marketing personnel only if EXPAREL is approved by the FDA, we will incur expenses prior to product launch in recruiting this sales force and developing a marketing and sales infrastructure. If the commercial launch of EXPAREL is delayed as a result of FDA requirements or other reasons, we would incur these expenses prior to being able to realize any revenue from sales of EXPAREL. Even if we are able to effectively hire a sales force and develop a marketing and sales infrastructure, our sales force and marketing teams may not be successful in commercializing EXPAREL or any other product candidates that we may develop.

To the extent we rely on third parties to commercialize any products for which we obtain regulatory approval, we may receive less revenues than if we commercialized these products ourselves. In addition, we would have less control over the sales efforts of any other third parties involved in our commercialization efforts. In the event we are unable to collaborate with a third-party marketing and sales organization, our ability to generate product revenues may be limited either in the United States or internationally.

If EXPAREL does not achieve broad market acceptance, the revenues that we generate from its sales will be limited.

Other than DepoCyt(e) and DepoDur, we have never commercialized a product candidate for any indication. Even if EXPAREL is approved by the appropriate regulatory authorities for marketing and sale, it may not gain acceptance among physicians, hospitals, patients and third-party payers. If our products for which we obtain regulatory approval do not gain an adequate level of acceptance, we may not generate significant additional product revenues or become profitable. Market acceptance of EXPAREL, and any other product candidates that we develop, license or acquire, by physicians, hospitals, patients and third-party payers will depend on a number of factors, some of which are beyond our control. The degree of market acceptance of EXPAREL will depend on a number of factors, including:

- limitations or warnings contained in the product's FDA-approved labeling, including potential limitations or warnings for EXPAREL that may be more restrictive than other pain management products;
- changes in the standard of care for the targeted indications for EXPAREL, which could reduce the marketing impact of any claims that we could make following FDA approval, if obtained;
- the relative convenience and ease of administration of EXPAREL;
- the prevalence and severity of adverse events associated with EXPAREL;
- cost of treatment versus economic and clinical benefit in relation to alternative treatments;
- the availability of adequate coverage or reimbursement by third parties, such as insurance companies and other healthcare payers, and by government healthcare programs, including Medicare and Medicaid;
- the extent and strength of our marketing and distribution of EXPAREL;
- the safety, efficacy and other potential advantages over, and availability of, alternative treatments, including, in the case of EXPAREL, a number of products already used to treat pain in the hospital setting; and
- distribution and use restrictions imposed by the FDA or to which we agree as part of a mandatory risk evaluation and mitigation strategy or voluntary risk management plan.

Our ability to effectively promote and sell EXPAREL and any other product candidates that we may develop, license or acquire in the hospital marketplace will also depend on pricing and cost effectiveness, including our ability to produce a product at a competitive price and achieve acceptance of the product onto hospital formularies, and our ability to obtain sufficient third-party coverage or reimbursement. Since many hospitals are members of group purchasing organizations, which leverage the purchasing power of a group of entities to obtain discounts based on the collective buying power of the group, our ability to attract customers in the hospital marketplace will also depend on our ability to effectively promote our product candidates to group purchasing organizations. We will also need to demonstrate acceptable evidence of safety and efficacy, as well as relative convenience and ease of administration. Market acceptance could be further limited depending on the prevalence and severity of any expected or unexpected adverse side effects associated with our product candidates. If our product candidates are approved but do not achieve an adequate level of acceptance by physicians, health care payers and patients, we may not generate sufficient revenue from these products, and we may not become or remain profitable. In addition, our efforts to educate the medical community and third-party payers on the benefits of our product candidates may require significant resources and may never be successful.

In addition, even if the medical community accepts that EXPAREL is safe and effective for its approved indications, physicians and patients may not immediately be receptive to EXPAREL and may be slow to adopt it as an accepted treatment of postsurgical pain. It is unlikely that any labeling approved by the FDA will contain claims that EXPAREL is safer or more effective than competitive products or will permit us to promote EXPAREL as being superior to competing products. Further, the availability of inexpensive generic forms of postsurgical pain management products may also limit acceptance of EXPAREL among physicians, patients and third-party payers. If EXPAREL is approved but does not achieve an adequate level of acceptance among physicians, patients and third-party payers, we may not generate meaningful revenues from EXPAREL and we may not become profitable.

We may rely on third parties to perform many essential services for any products that we commercialize, including services related to warehousing and inventory control, distribution, customer service, accounts receivable management, cash collection and adverse event reporting. If these third parties fail to perform as expected or to comply with legal and regulatory requirements, our ability to commercialize EXPAREL will be significantly impacted and we may be subject to regulatory sanctions.

We may retain third-party service providers to perform a variety of functions related to the sale and distribution of EXPAREL, key aspects of which will be out of our direct control. These service providers may provide key services related to warehousing and inventory control, distribution, customer service, accounts receivable management and cash collection, and, as a result, most of our inventory may be stored at a single warehouse maintained by one such service provider. If we retain this provider, we would substantially rely on them as well as other third-party providers that perform services for us, including entrusting our inventories of products to their care and handling. If these third-party service providers fail to comply with applicable laws and regulations, fail to meet expected deadlines, or otherwise do not carry out their contractual duties to us, or encounter physical or natural damage at their facilities, our ability to deliver product to meet commercial demand would be significantly impaired. In addition, we may engage third parties to perform various other services for us relating to adverse event reporting, safety database management, fulfillment of requests for medical information regarding our product candidates and related services. If the quality or accuracy of the data maintained by these service providers is insufficient, we could be subject to regulatory sanctions.

Distribution of our DepoFoam-based products requires cold-chain distribution provided by third parties, whereby a product must be maintained between specified temperatures. We and our partners have utilized similar cold-chain processes for DepoCyt(e) and DepoDur. If a problem occurs in our cold-chain distribution processes, whether through our failure to maintain our products or product candidates between specified temperatures or because of a failure of one of our distributors or partners to maintain the temperature of the products or product candidates, the product or product candidate could be adulterated and rendered unusable. This could have a material adverse effect on our business, financial condition, results of operations and reputation.

We will need to increase the size of our organization, and we may experience difficulties in managing growth.

As of September 30, 2010, we had 75 employees. We will need to substantially expand our managerial, commercial, financial, manufacturing and other personnel resources in order to manage our operations and prepare for the commercialization of EXPAREL, if approved. Our management, personnel, systems and facilities currently in place may not be adequate to support this future growth. In addition, we may not be able to recruit and retain qualified personnel in the future, particularly for sales and marketing positions, due to competition for personnel among pharmaceutical businesses, and the failure to do so could have a significant negative impact on our future product revenues and business results. Our need to effectively manage our operations, growth and various projects requires that we:

- continue the hiring and training of an effective commercial organization in anticipation of the potential approval of EXPAREL, and establish appropriate systems, policies and infrastructure to support that organization;
- ensure that our consultants and other service providers successfully carry out their contractual obligations, provide high quality results, and meet expected deadlines;
- continue to carry out our own contractual obligations to our licensors and other third parties; and
- continue to improve our operational, financial and management controls, reporting systems and procedures.

We may be unable to successfully implement these tasks on a larger scale and, accordingly, may not achieve our development and commercialization goals.

We may not be able to manage our business effectively if we are unable to attract and retain key personnel.

We may not be able to attract or retain qualified management and commercial, scientific and clinical personnel due to the intense competition for qualified personnel among biotechnology, pharmaceutical and other businesses, particularly in the San Diego, California and Northern New Jersey areas. If we are not able to attract and retain necessary personnel to accomplish our business objectives, we may experience constraints that will significantly impede the achievement of our development objectives, our ability to raise additional capital and our ability to implement our business strategy.

Our industry has experienced a high rate of turnover of management personnel in recent years. We are highly dependent on the development and manufacturing expertise for our DepoFoam delivery technology and the commercialization expertise of certain members of our senior management. In particular, we are highly dependent on the skills and leadership of our management team, including David Stack, our president and chief executive officer. If we lose one or more of these key employees, our ability to successfully implement our business strategy could be seriously harmed. Replacing key employees may be difficult and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to develop, gain regulatory approval of and commercialize products successfully. Competition to hire from this limited pool is intense, and we may be unable to hire, train, retain or motivate additional key personnel.

Mr. Stack, our chief executive officer, is also a managing director at MPM Capital and a managing partner of Stack Pharmaceuticals, Inc. As a result, Mr. Stack's responsibilities at MPM Capital and Stack Pharmaceuticals, Inc. might require that he spend less than all his time managing our company.

Under our consulting agreement with Gary Patou, M.D., our chief medical officer, he is not required to devote all of his time to our company. We cannot assure you that Dr. Patou's time commitment to us will be sufficient to perform the duties of our chief medical officer.

We face potential product liability exposure, and if successful claims are brought against us, we may incur substantial liability for DepoCyt(e), DepoDur, EXPAREL or other product candidates that we may develop and may have to limit their commercialization.

The use of DepoCyt(e), DepoDur, EXPAREL and any other product candidates that we may develop, license or acquire in clinical trials and the sale of any products for which we obtain regulatory approval expose us to the risk of product liability claims. Product liability claims might be brought against us by consumers, health care providers or others using, administering or selling our products. If we cannot successfully defend ourselves against these claims, we will incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- loss of revenue from decreased demand for our products and/or product candidates;
- impairment of our business reputation or financial stability;
- costs of related litigation;
- substantial monetary awards to patients or other claimants;
- diversion of management attention;
- loss of revenues;
- withdrawal of clinical trial participants and potential termination of clinical trial sites or entire clinical programs; and
- the inability to commercialize our product candidates.

We have obtained limited product liability insurance coverage for our products and our clinical trials with a $10.0 million annual aggregate coverage limit. However, our insurance coverage may not reimburse us or may not be sufficient to reimburse us for any expenses or losses we may suffer. Moreover, insurance coverage is becoming increasingly expensive, and, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to liability. We intend to expand our insurance coverage to include the sale of additional commercial products if we obtain FDA approval for our product candidates in development, but we may be unable to obtain commercially reasonable product liability insurance for any products approved for marketing, or at all. On occasion, large judgments have been awarded in class action lawsuits based on drugs that had unanticipated side effects. A successful product liability claim or series of claims brought against us could cause our stock price to fall and, if judgments exceed our insurance coverage, could decrease our cash and adversely affect our business.

We are the sole manufacturer of DepoCyt(e) and DepoDur and we only have two FDA approved manufacturing facilities. Our inability to continue manufacturing adequate supplies of DepoCyt(e) and DepoDur could result in a disruption in the supply of DepoCyt(e) and DepoDur to our partners.

We are the sole manufacturer of DepoCyt(e) and DepoDur. We develop and manufacture DepoCyt(e) and DepoDur at our facilities in San Diego, California, which are the only FDA approved sites for manufacturing DepoCyt(e) and DepoDur in the world. Our San Diego facilities are subject to the risks of a natural or man-made disaster, including earthquakes and fires, or other business disruption. There can be no assurance that we would be able to meet our requirements for DepoCyt(e) and DepoDur if there were a catastrophic event or failure of our current manufacturing system. If we are required to change or add a new manufacturer or supplier, the process would likely require prior FDA and/or equivalent foreign regulatory authority approval, and would be very time consuming. An inability to continue manufacturing adequate supplies of DepoCyt(e) and DepoDur at our facility in San Diego, California could result in a disruption in the supply of DepoCyt(e) and DepoDur to our partners and breach of our contractual obligations.

If we fail to manufacture DepoCyt(e) and DepoDur we will lose revenues and be in breach of our licensing obligations.

We have licensed the commercial rights in specified territories of the world to market and sell our products, DepoCyt(e) and DepoDur. Under those licenses we have obligations to manufacture commercial product for our commercial partners. If we are unable to timely fill the orders placed with us by our commercial partners, we will potentially lose revenue and be in breach of our licensing obligations under the agreements. In addition, we would be in breach of our obligations to comply with our supply and distribution agreements for DepoCyt(e) and DepoDur, which would in turn be a breach of our obligations under our amended and restated royalty interests assignment agreement, or the Amended and Restated Royalty Interests Assignment Agreement, with Royalty Securitization Trust I, an affiliate of Paul Capital Advisors, LLC, or Paul Capital. See "Risk Factors—Risks Related to Our Financial Condition and Capital Requirements—Under our financing arrangement with Paul Capital, upon the occurrence of certain events, Paul Capital may require us to repurchase the right to receive royalty payments that we assigned to it, or may foreclose on certain assets that secure our obligations to Paul Capital. Any exercise by Paul Capital of its right to cause us to repurchase the assigned right or any foreclosure by Paul Capital would adversely affect our results of operations and our financial condition."

We rely on third parties for the timely supply of specified raw materials and equipment for the manufacture of DepoCyt(e) and DepoDur. Although we actively manage these third-party relationships to provide continuity and quality, some events which are beyond our control could result in the complete or partial failure of these goods and services. Any such failure could have a material adverse effect on our financial condition and operations.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls, and the use of specialized processing equipment. We must comply with federal, state and foreign regulations, including current Good Manufacturing Practices, or cGMP, regulations and in the case of the manufacturing of DepoDur required government licenses regarding the storage and use of controlled substances. Any failure to comply with applicable regulations may result in fines and civil penalties, suspension of production, suspension or delay in product approval for sale, product seizure or recall, or withdrawal of product approval, and would limit the availability of our product. Any manufacturing defect or error discovered after products have been produced and distributed could result in even more significant consequences, including costly recall procedures, re-stocking costs, damage to our reputation, product liability claims and litigation.

Our future growth depends on our ability to identify, develop, acquire or in-license products and if we do not successfully identify develop, acquire or in-license related product candidates or integrate them into our operations, we may have limited growth opportunities.

An important part of our business strategy is to continue to develop a pipeline of product candidates by developing, acquiring or in-licensing products, businesses or technologies that we believe are a strategic fit with our focus on the hospital marketplace. However, these business activities may entail numerous operational and financial risks, including:

- difficulty or inability to secure financing to fund development activities for such development, acquisition or in-licensed products or technologies;
- incurrence of substantial debt or dilutive issuances of securities to pay for development, acquisition or in-licensing of new products;
- disruption of our business and diversion of our management's time and attention;
- higher than expected development, acquisition or in-license and integration costs;
- exposure to unknown liabilities;

- difficulty and cost in combining the operations and personnel of any acquired businesses with our operations and personnel;
- inability to retain key employees of any acquired businesses;
- difficulty in managing multiple product development programs; and
- inability to successfully develop new products or clinical failure.

We have limited resources to identify and execute the development, acquisition or in-licensing of products, businesses and technologies and integrate them into our current infrastructure. We may compete with larger pharmaceutical companies and other competitors in our efforts to establish new collaborations and in-licensing opportunities. These competitors likely will have access to greater financial resources than us and may have greater expertise in identifying and evaluating new opportunities. Moreover, we may devote resources to potential development, acquisitions or in-licensing opportunities that are never completed, or we may fail to realize the anticipated benefits of such efforts.

Our business involves the use of hazardous materials and we must comply with environmental laws and regulations, which can be expensive and restrict how we do business.

Our manufacturing activities involve the controlled storage, use and disposal of hazardous materials, including the components of our products, product candidates and other hazardous compounds. We are subject to federal, state and local laws and regulations governing the use, manufacture, storage, handling, release and disposal of, and exposure to, these hazardous materials. Violation of these laws and regulations could lead to substantial fines and penalties. Although we believe that our safety procedures for handling and disposing of these materials comply with the standards prescribed by these laws and regulations, we cannot eliminate the risk of accidental contamination or injury from these materials. In the event of an accident, state or federal authorities may curtail our use of these materials and interrupt our business operations. In addition, we could become subject to potentially material liabilities relating to the investigation and cleanup of any contamination, whether currently unknown or caused by future releases.

Our business and operations would suffer in the event of system failures.

Despite the implementation of security measures, our internal computer systems are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Any system failure, accident or security breach that causes interruptions in our operations could result in a material disruption of our product development programs. For example, the loss of clinical trial data from completed clinical trials for EXPAREL could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. To the extent that any disruption or security breach results in a loss or damage to our data or applications, or inappropriate disclosure of confidential or proprietary information, we may incur liability and the further development of our product candidates may be delayed.

Any collaboration arrangements that we may enter into in the future may not be successful, which could adversely affect our ability to develop and commercialize our product candidates.

Our business model is to commercialize our product candidates in the United States and generally to seek collaboration arrangements with pharmaceutical or biotechnology companies for the development or commercialization of our product candidates in the rest of the world. Accordingly, we may enter into collaboration arrangements in the future on a selective basis. Any future collaboration arrangements that we enter into may not be successful. The success of our collaboration arrangements will depend heavily on the efforts and activities of our collaborators. Collaborators generally have significant discretion in determining the efforts and resources that they will apply to these collaboration arrangements.

Disagreements between parties to a collaboration arrangement regarding clinical development and commercialization matters can lead to delays in the development process or commercializing the applicable product candidate and, in some cases, termination of the collaboration arrangement. These disagreements can be difficult to resolve if neither of the parties has final decision making authority.

Collaborations with pharmaceutical companies and other third parties often are terminated or allowed to expire by the other party. Any such termination or expiration would adversely affect us financially and could harm our business reputation.

Regulatory Risks

We may not receive regulatory approval for EXPAREL or any of our other product candidates, or their approval may be delayed, which would have a material adverse effect on our business and financial condition.

We may experience delays in our efforts to obtain regulatory approval from the FDA for EXPAREL or any of our other product candidates, and there can be no assurance that such approval will not be delayed, or that the FDA will ultimately approve these product candidates.

The FDA may require additional data or information as part of its review of our NDA. If additional stability data or other manufacturing data is required, such data may not be available for a significant amount of time, which could further delay the approval of our NDA for EXPAREL and cause us to incur significant additional expenses. The FDA may also require us to study EXPAREL in pediatric patients. Although we have requested a waiver for patients under two years of age and a deferral for patients under 18 years of age, there can be no assurance that the FDA will grant our waiver or deferral and we may be required to perform these additional pediatric trials, which could be expensive and time consuming.

Our NDA approval is subject to a pre-approval inspection of our production facilities for manufacturing for EXPAREL. Our NDA approval for EXPAREL could be delayed if the FDA does not agree that the registration batches submitted in our NDA are fully representative of the manufacturing process and thus meet the requirements for batches that may be used to provide evidence of stability for this product candidate. In such an event, we would be required to potentially manufacture new batches in order to provide the necessary stability data which could delay FDA approval and cause us to incur significant additional expenses.

Additionally, our NDA for EXPAREL may not be approved, or approval may be delayed, as a result of changes in FDA policies for drug approval. For example, although many products have been approved by the FDA in recent years under Section 505(b)(2) under the Federal Food, Drug and Cosmetic Act, objections have been raised to the FDA's interpretation of Section 505(b)(2). If challenges to the FDA's interpretation of Section 505(b)(2) are successful, the agency may be required to change its interpretation, which could delay or prevent the approval of our NDA for EXPAREL.

Any significant delay in re-submitting an NDA and obtaining FDA approval for EXPAREL, or a non-approval, could negatively impact our ability to ultimately obtain marketing authorization for this product candidate and would have a material adverse effect on our business and financial condition.

If EXPAREL is approved and we fail to manufacture the product in sufficient quantities and at acceptable quality and pricing levels, or to fully comply with cGMP regulations, we may face delays in the commercialization of this product candidate or be unable to meet market demand, and may lose potential revenues.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls, and the use of specialized processing equipment. In order to meet anticipated demand for EXPAREL if this product candidate is approved,

we plan to install additional specialized processing equipment to expand the manufacturing capacity for EXPAREL in our facilities. This processing equipment is designed based on our specifications and is not generally commercially available. If we are not able to expand our capacity to manufacture EXPAREL on time or at all, our ability to meet our customers' product demands may be materially and adversely impacted.

We purchase raw materials and components from various suppliers in order to manufacture EXPAREL. If we are unable to source the required raw materials from our suppliers, we may experience delays in manufacturing EXPAREL and may not be able to meet our customers' demands for EXPAREL.

In addition, we must comply with federal, state and foreign regulations, including cGMP requirements enforced by the FDA through its facilities inspection program. Any failure to comply with applicable regulations may result in fines and civil penalties, suspension of production, suspension or delay in product approval, product seizure or recall, or withdrawal of product approval, and would limit the availability of our product. Any manufacturing defect or error discovered after products have been produced and distributed could result in even more significant consequences, including costly recall procedures, re-stocking costs, damage to our reputation and potential for product liability claims.

If we are unable to produce the required commercial quantities of EXPAREL to meet market demand for EXPAREL on a timely basis or at all, or if we fail to comply with applicable laws for the manufacturing of EXPAREL, we will suffer damage to our reputation and commercial prospects and we will lose potential revenues.

The FDA may determine that EXPAREL or any of our other product candidates have undesirable side effects that could delay or prevent their regulatory approval or commercialization.

If concerns are raised regarding the safety of a new drug as a result of undesirable side effects identified during clinical testing, the FDA may decline to approve the drug at the end of the NDA review period or issue a letter requesting additional data or information prior to making a final decision regarding whether or not to approve the drug. The number of such requests for additional data or information issued by the FDA in recent years has increased, and resulted in substantial delays in the approval of several new drugs. Undesirable side effects caused by EXPAREL or any other product candidate could also result in the inclusion of unfavorable information in our product labeling, denial of regulatory approval by the FDA or other regulatory authorities for any or all targeted indications, and in turn prevent us from commercializing and generating revenues from the sale of EXPAREL or any other product candidate.

For example, the side effects observed in the EXPAREL clinical trials completed to date include nausea and vomiting. In addition, the class of drugs that EXPAREL belongs to has been associated with nervous system and cardiovascular toxicities at high doses. We cannot be certain that these side effects and others will not be observed in the future, or that the FDA will not require additional trials or impose more severe labeling restrictions due to these side effects or other concerns. The active component of EXPAREL is bupivacaine and bupivacaine infusions have been associated with the destruction of articular cartilage, or chondrolysis. Chondrolysis has not been observed in clinical trials of EXPAREL, but we cannot be certain that this side effect will not be observed in the future.

If EXPAREL or any of our other product candidates receives regulatory approval and we or others later identify undesirable side effects caused by such products:

- regulatory authorities may require the addition of unfavorable labeling statements, specific warnings or a contraindication;
- regulatory authorities may suspend or withdraw their approval of the product, or require it to be removed from the market;
- regulatory authorities may impose restrictions on the distribution or use of the product;

- we may be required to change the way the product is administered, conduct additional clinical trials or change the labeling of the product;
- we may be subject to product liability claims and litigation; and
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of EXPAREL or any of our other product candidates and could substantially increase our commercialization costs and expenses, which in turn could delay or prevent us from generating significant revenues from its sale.

Regulatory approval for any approved product is limited by the FDA to those specific indications and conditions for which clinical safety and efficacy have been demonstrated.

Any regulatory approval is limited to those specific diseases and indications for which a product is deemed to be safe and effective by the FDA. In addition to the FDA approval required for new formulations, any new indication for an approved product also requires FDA approval. If we are not able to obtain FDA approval for any desired future indications for our products and product candidates, our ability to effectively market and sell our products may be reduced and our business may be adversely affected.

While physicians may choose to prescribe drugs for uses that are not described in the product's labeling and for uses that differ from those tested in clinical studies and approved by the regulatory authorities, our ability to promote the products is limited to those indications that are specifically approved by the FDA. These "off-label" uses are common across medical specialties and may constitute an appropriate treatment for some patients in varied circumstances. Regulatory authorities in the United States generally do not regulate the behavior of physicians in their choice of treatments. Regulatory authorities do, however, restrict communications by pharmaceutical companies on the subject of off-label use. If our promotional activities fail to comply with these regulations or guidelines, we may be subject to warnings from, or enforcement action by, these authorities. In addition, our failure to follow FDA rules and guidelines relating to promotion and advertising may cause the FDA to issue warning letters or untitled letters, suspend or withdraw an approved product from the market, require a recall or institute fines or civil fines, or could result in disgorgement of money, operating restrictions, injunctions or criminal prosecution, any of which could harm our business.

If we are unable to complete pre-commercialization manufacturing development activities for EXPAREL on a timely basis or fail to comply with stringent regulatory requirements, we will face delays in our ability to obtain regulatory approval for, and to commercialize, this product candidate, and our costs will increase.

As part of the process for obtaining regulatory approval, we must demonstrate that the facilities, equipment and processes used to manufacture EXPAREL are capable of consistently producing a product that meets all applicable quality criteria, and that is comparable to the product that was used in our clinical trials. We must also provide the FDA with information regarding the validation of the manufacturing facilities, equipment and processes and data supporting the stability of our product candidate. If we are not in compliance with cGMP requirements, the approval of our NDA may be delayed, existing product batches may be compromised, and we may experience delays in the availability of this product candidate for commercial distribution.

Even if EXPAREL receives regulatory approval, it and any other products we may market, including DepoCyt(e) and DepoDur, will remain subject to substantial regulatory scrutiny.

EXPAREL, DepoCyt(e) and DepoDur and any other product candidates that we may develop, license or acquire will also be subject to ongoing FDA requirements with respect to the manufacturing, labeling, packaging, storage, distribution, advertising, promotion, record-keeping and submission of safety and other post-market information on the drug. In addition, the subsequent discovery of previously unknown problems with a product may result in restrictions on the product, including withdrawal of the product from the market.

If EXPAREL, DepoCyt(e) and DepoDur or any other product that we may develop, license or acquire fails to comply with applicable regulatory requirements, such as cGMP regulations, a regulatory agency may:

- issue warning letters or untitled letters;
- require us to enter into a consent decree, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions and penalties for noncompliance;
- impose fines and other civil or criminal penalties;
- suspend regulatory approval;
- suspend any ongoing clinical trials;
- refuse to approve pending applications or supplements to approved applications filed by us;
- impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products or require a product recall.

For example, the FDA informed us that certain adverse event reports related to DepoCyt(e) and DepoDur submitted to us during the previous two years were not submitted by us to the FDA within the required 15-day timeframe for reporting such events. In response to the FDA's observations, we enhanced our reporting procedures and hired additional personnel to support our pharmacovigilance efforts.

If we fail to comply with federal and state healthcare laws, including fraud and abuse and health information privacy and security laws, we could face substantial penalties and our business, results of operations, financial condition and prospects could be adversely affected.

As a pharmaceutical company, even though we do not and will not control referrals of healthcare services or bill directly to Medicare, Medicaid or other third-party payers, certain federal and state healthcare laws and regulations pertaining to fraud and abuse and patients' rights are and will be applicable to our business. We would be subject to healthcare fraud and abuse and patient privacy regulation by both the federal government and the states in which we conduct our business. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute, which constrains our marketing practices, educational programs, pricing policies, and relationships with healthcare providers or other entities, by prohibiting, among other things, soliciting, receiving, offering or paying remuneration, directly or indirectly, to induce, or in return for, the purchase or recommendation of an item or service reimbursable under a federal healthcare program, such as the Medicare and Medicaid programs;
- federal civil and criminal false claims laws and civil monetary penalty laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid, or other third-party payers that are false or fraudulent;
- the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, which created new federal criminal statutes that prohibit executing a scheme to defraud any healthcare benefit program and making false statements relating to healthcare matters;
- federal physician self-referral laws, such as the Stark law, which prohibit a physician from making a referral to a provider of certain health services with which the physician or the physician's family member has a financial interest, and prohibit submission of a claim for reimbursement pursuant to a prohibited referral;
- HIPAA, as amended by the Health Information Technology and Clinical Health Act, or HITECH, and its implementing regulations, which imposes certain requirements relating to the privacy, security and transmission of individually identifiable health information; and
- state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws which may apply to items or services reimbursed by any third-party payer, including commercial

insurers, and state laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

Because of the breadth of these laws and the narrowness of the statutory exceptions and safe harbors available under the U.S. federal Anti-Kickback Statute, it is possible that some of our business activities could be subject to challenge under one or more of such laws. Recently, several pharmaceutical and other healthcare companies have been prosecuted under the federal false claims laws for allegedly inflating drug prices they report to pricing services, which in turn are used by the government to set Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product. In addition, certain marketing practices, including off-label promotion, may also violate false claims laws. To the extent that any product we make is sold in a foreign country, we may be subject to similar foreign laws and regulations. If we or our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to penalties, including civil and criminal penalties, damages, fines, exclusion from participation in U.S. federal or state health care programs, and the curtailment or restructuring of our operations. Any penalties, damages, fines, curtailment or restructuring of our operations could materially adversely affect our ability to operate our business and our financial results. Although compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be entirely eliminated. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with applicable federal and state privacy, security and fraud laws may prove costly.

The design, development, manufacture, supply, and distribution of DepoCyt(e) and DepoDur is highly regulated and technically complex.

The design, development, manufacture, supply, and distribution of our products DepoCyt(e) and DepoDur is technically complex and highly regulated. We, along with our third-party providers, must comply with all applicable regulatory requirements of the FDA and foreign authorities. In addition, the facilities used to manufacture, store, and distribute our products are subject to inspection by regulatory authorities at any time to determine compliance with applicable regulations.

The manufacturing techniques and facilities used for the manufacture and supply of our products must be operated in conformity with cGMP. In complying with cGMP requirements, we, along with our suppliers, must continually expend time, money and effort in production, record keeping, and quality assurance and control to ensure that our products meet applicable specifications and other requirements for safety, efficacy and quality. In addition, we, along with our suppliers, are subject to unannounced inspections by the FDA and other regulatory authorities.

Any failure to comply with regulatory and other legal requirements applicable to the manufacture, supply and distribution of our products could lead to remedial action (such as recalls), civil and criminal penalties and delays in manufacture, supply and distribution of our products. For instance, in connection with routine inspections of one of our manufacturing facilities in April and May 2008, the FDA issued a Form 483 Notice of Inspectional Observations identifying certain deficiencies with respect to our laboratory control system for Depocyt(e). As a result, we did not release new lots of Depocyt(e) for a limited time period as we validated a new assay. We also submitted the new assay to the FDA in July 2008 and in August 2008 we began releasing new lots of DepoCyt(e).

If we fail to comply with the extensive regulatory requirements to which we and our products DepoCyt(e) and DepoDur are subject, such products could be subject to restrictions or withdrawal from the market and we could be subject to penalties.

The testing, manufacturing, labeling, safety, advertising, promotion, storage, sales, distribution, export and marketing, among other things, of our products DepoCyt(e) and DepoDur are subject to extensive regulation by

governmental authorities in the United States and elsewhere throughout the world. Quality control and manufacturing procedures regarding DepoCyt(e) and DepoDur must conform to cGMP. Regulatory authorities, including the FDA, periodically inspect manufacturing facilities to assess compliance with cGMP. Our failure or the failure of our contract manufacturers to comply with the laws administered by the FDA or other governmental authorities could result in, among other things, any of the following:

- product recall or seizure;
- suspension or withdrawal of an approved product from the market;
- interruption of production;
- operating restrictions;
- warning letters;
- injunctions;
- fines and other monetary penalties;
- criminal prosecutions; and
- unanticipated expenditures.

If the government or third-party payers fail to provide coverage and adequate coverage and payment rates for DepoCyt(e), DepoDur, EXPAREL or any future products we may develop, license or acquire, if any, or if hospitals choose to use therapies that are less expensive, our revenue and prospects for profitability will be limited.

In both domestic and foreign markets, sales of our existing products and any future products will depend in part upon the availability of coverage and reimbursement from third-party payers. Such third-party payers include government health programs such as Medicare and Medicaid, managed care providers, private health insurers and other organizations. Coverage decisions may depend upon clinical and economic standards that disfavor new drug products when more established or lower cost therapeutic alternatives are already available or subsequently become available. Assuming coverage is approved, the resulting reimbursement payment rates might not be adequate. In particular, many U.S. hospitals receive a fixed reimbursement amount per procedure for certain surgeries and other treatment therapies they perform. Because this amount may not be based on the actual expenses the hospital incurs, hospitals may choose to use therapies which are less expensive when compared to our product candidates. Accordingly, DepoCyt(e), DepoDur, EXPAREL or any other product candidates that we may develop, in-license or acquire, if approved, will face competition from other therapies and drugs for these limited hospital financial resources. We may need to conduct post-marketing studies in order to demonstrate the cost-effectiveness of any future products to the satisfaction of hospitals, other target customers and their third-party payers. Such studies might require us to commit a significant amount of management time and financial and other resources. Our future products might not ultimately be considered cost-effective. Adequate third-party coverage and reimbursement might not be available to enable us to maintain price levels sufficient to realize an appropriate return on investment in product development.

Third party payers, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs. In addition, in the United States, no uniform policy of coverage and reimbursement for drug products exists among third-party payers. Therefore, coverage and reimbursement for drug products can differ significantly from payer to payer.

Further, we believe that future coverage and reimbursement will likely be subject to increased restrictions both in the United States and in international markets. Third-party coverage and reimbursement for our products or product candidates for which we receive regulatory approval may not be available or adequate in either the United States or international markets, which could have a negative effect on our business, results of operations, financial condition and prospects.

The FDA may not approve our proposed trade name, EXPAREL.

EXPAREL, or any other trade name that we intend to use for extended-release liposome injection of bupivacaine, must be approved by the FDA irrespective of whether we have secured a formal trademark registration from the U.S. Patent and Trademark Office. The FDA conducts a rigorous review of proposed product names, and may reject a product name if it believes that the name inappropriately implies medical claims or if it poses the potential for confusion with other product names. The FDA will not approve this trade name until the NDA for EXPAREL is approved. If the FDA determines that the trade names of other products that are approved prior to the approval of extended-release liposome injection of bupivacaine may present a risk of confusion with our proposed trade name, the FDA may not ultimately approve EXPAREL. If our trade name, EXPAREL, is rejected, we will lose the benefit of any brand equity that may already have been developed for this product candidate, as well as the benefit of our existing trademark applications for this trade name. If the FDA does not approve the EXPAREL trade name, we may be required to launch this product candidate without a brand name, and our efforts to build a successful brand identity for, and commercialize, this product candidate may be adversely impacted.

We are subject to new legislation, regulatory proposals and healthcare payer initiatives that may increase our costs of compliance and adversely affect our ability to market our products, obtain collaborators and raise capital.

In March 2010, the President signed the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act, which we refer to collectively as the Health Care Reform Law. The Health Care Reform Law makes extensive changes to the delivery of health care in the United States. Among the provisions of the Health Care Reform Law of greatest importance to the pharmaceutical industry are the following:

- an annual, nondeductible fee on any entity that manufactures or imports certain branded prescription drugs and biologic agents, apportioned among these entities according to their market share in certain government healthcare programs, beginning in 2011;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program, retroactive to January 1, 2010, to 23.1% and 13% of the average manufacturer price for most branded and generic drugs, respectively;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D, beginning in 2011;
- extension of manufacturers' Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations, effective March 23, 2010;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to additional individuals beginning in April 2010 and by adding new mandatory eligibility categories for certain individuals with income at or below 133% of the Federal Poverty Level beginning in 2014, thereby potentially increasing both the volume of sales and manufacturers' Medicaid rebate liability;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program, effective in January 2010;
- new requirements to report certain financial arrangements with physicians and others, including reporting any "transfer of value" made or distributed to prescribers and other healthcare providers and reporting any investment interests held by physicians and their immediate family members during each calendar year beginning in 2012, with reporting starting in 2013;
- a new requirement to annually report drug samples that manufacturers and distributors provide to physicians, effective April 1, 2012;

- a licensure framework for follow-on biologic products;
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research;
- creation of the Independent Payment Advisory Board which, beginning in 2014, will have authority to recommend certain changes to the Medicare program that could result in reduced payments for prescription drugs and those recommendations could have the effect of law even if Congress does not act on the recommendations; and
- establishment of a Center for Medicare Innovation at the Centers for Medicare & Medicaid Services to test innovative payment and service delivery models to lower Medicare and Medicaid spending, potentially including prescription drug spending, beginning by January 1, 2011.

These measures could result in decreased net revenues from our pharmaceutical products and decrease potential returns from our development efforts. Many of the details regarding the implementation of the Health Care Reform Law are yet to be determined, and at this time, the full effect that the Health Care Reform Law would have on our business remains unclear.

In addition, there have been a number of other legislative and regulatory proposals aimed at changing the pharmaceutical industry. In particular, California has enacted legislation that requires development of an electronic pedigree to track and trace each prescription drug at the saleable unit level through the distribution system. California's electronic pedigree requirement is scheduled to take effect in January 2015. Compliance with California and future federal or state electronic pedigree requirements may increase our operational expenses and impose significant administrative burdens. As a result of these and other new proposals, we may determine to change our current manner of operation, provide additional benefits or change our contract arrangements, any of which could have a material adverse effect on our business, financial condition and results of operations.

Public concern regarding the safety of drug products such as EXPAREL could delay or limit our ability to obtain regulatory approval, result in the inclusion of unfavorable information in our labeling, or require us to undertake other activities that may entail additional costs.

In light of widely publicized events concerning the safety risk of certain drug products, the FDA, members of Congress, the Government Accountability Office, medical professionals and the general public have raised concerns about potential drug safety issues. These events have resulted in the withdrawal of drug products, revisions to drug labeling that further limit use of the drug products and the establishment of risk management programs that may, for example, restrict distribution of drug products after approval. The Food and Drug Administration Amendments Act of 2007, or FDAAA, grants significant expanded authority to the FDA, much of which is aimed at improving the safety of drug products before and after approval. In particular, the FDAAA authorizes the FDA to, among other things, require post-approval studies and clinical trials, mandate changes to drug labeling to reflect new safety information and require risk evaluation and mitigation strategies for certain drugs, including certain currently approved drugs. It also significantly expands the federal government's clinical trial registry and results databank, which we expect will result in significantly increased government oversight of clinical trials. Under the FDAAA, companies that violate these and other provisions of the new law are subject to substantial civil monetary penalties, among other regulatory, civil and criminal penalties. The increased attention to drug safety issues may result in a more cautious approach by the FDA in its review of data from our clinical trials. Data from clinical trials may receive greater scrutiny, particularly with respect to safety, which may make the FDA or other regulatory authorities more likely to require additional preclinical studies or clinical trials. If the FDA requires us to conduct additional preclinical studies or clinical trials prior to approving EXPAREL, our ability to obtain approval of this product candidate will be delayed. If the FDA requires us to provide additional clinical or preclinical data following the approval of EXPAREL, the indications for which this product candidate is approved may be limited or there may be specific warnings or limitations on dosing, and our efforts to commercialize EXPAREL may be otherwise adversely impacted.

Our product, DepoDur, is subject to regulation by the Drug Enforcement Agency and such regulation may affect the sale of DepoDur.

Products used to treat and manage pain, especially in the case of opioids, are from time to time subject to negative publicity, including illegal use, overdoses, abuse, diversion, serious injury and death. These events have led to heightened regulatory scrutiny. Controlled substances are classified by the DEA as Schedule I through V substances, with Schedule I substances being prohibited for sale in the United States, Schedule II substances considered to present the highest risk of abuse and Schedule V substances being considered to present the lowest relative risk of abuse. DepoDur contains morphine, and it is regulated as a Schedule II controlled substance. Despite the strict regulations on the marketing, prescribing and dispensing of such substances, illicit use and abuse of morphine does occur. Thus, the marketing of DepoDur by our partners may generate public controversy that may adversely affect sales of DepoDur and decrease the revenue we receive from the sale of DepoDur.

In addition, we and our contract manufacturers are subject to ongoing DEA regulatory obligations, including, among other things, annual registration renewal, security, recordkeeping, theft and loss reporting, periodic inspection and annual quota allotments for the raw material for commercial production of our products. The DEA, and some states, conduct periodic inspections of registered establishments that handle controlled substances. Facilities that conduct research, manufacture, store, distribute, import or export controlled substances must be registered to perform these activities and have the security, control and inventory mechanisms required by the DEA to prevent drug loss and diversion. Failure to maintain compliance, particularly non-compliance resulting in loss or diversion, can result in regulatory action that could have a material adverse effect on our business, results of operations, financial condition and prospects. The DEA may seek civil penalties, refuse to renew necessary registrations, or initiate proceedings to revoke those registrations. In certain circumstances, violations could lead to criminal proceedings.

Individual states also have controlled substances laws. Though state controlled substances laws often mirror federal law, because the states are separate jurisdictions, they may separately schedule drugs, as well. While some states automatically schedule a drug when the DEA does so, in other states there has to be rulemaking or a legislative action. State scheduling may delay commercial sale of any controlled substance drug product for which we obtain federal regulatory approval and adverse scheduling could have a material adverse effect on the commercial attractiveness of such product. We or our partners must also obtain separate state registrations in order to be able to obtain, handle, and distribute controlled substances for clinical trials or commercial sale, and failure to meet applicable regulatory requirements could lead to enforcement and sanctions from the states in addition to those from the DEA or otherwise arising under federal law.

Risks Related to Intellectual Property

The patents and the patent applications that we have covering our products are limited to specific injectable formulations, processes and uses of drugs encapsulated in our DepoFoam drug delivery technology and our market opportunity for our product candidates may be limited by the lack of patent protection for the active ingredient itself and other formulations and delivery technology and systems that may be developed by competitors.

The active ingredients in EXPAREL, DepoCyt(e) and DepoDur are bupivacaine, cytarabine and morphine, respectively. Patent protection for the bupivacaine, cytarabine and morphine molecules themselves has expired and generic immediate-release products are available. As a result, competitors who obtain the requisite regulatory approval can offer products with the same active ingredients as EXPAREL, DepoCyt(e) and DepoDur so long as the competitors do not infringe any process, use or formulation patents that we have developed for these drugs encapsulated in our DepoFoam drug delivery technology.

For example, we are aware of at least one long acting injectable bupivacaine product in development which utilizes an alternative delivery system to EXPAREL. Such a product is similar to EXPAREL in that it also extends the duration of effect of bupivacaine, but achieves this clinical outcome using a completely different drug delivery system compared to our DepoFoam drug delivery technology.

The number of patents and patent applications covering products in the same field as EXPAREL indicates that competitors have sought to develop and may seek to market competing formulations that may not be covered by our patents and patent applications. The commercial opportunity for EXPAREL could be significantly harmed if competitors are able to develop and commercialize alternative formulations of bupivacaine that are long acting but outside the scope of our patents.

If EXPAREL is approved by the FDA, one or more third parties may challenge the patents covering this product, which could result in the invalidation or unenforceability of some or all of the relevant patent claims. For example, if a third party files an Abbreviated New Drug Application, or ANDA, for a generic drug product containing bupivacaine and relies in whole or in part on studies conducted by or for us, the third party will be required to certify to the FDA that either: (1) there is no patent information listed in the FDA's Orange Book with respect to our NDA for EXPAREL; (2) the patents listed in the Orange Book have expired; (3) the listed patents have not expired, but will expire on a particular date and approval is sought after patent expiration; or (4) the listed patents are invalid or will not be infringed by the manufacture, use or sale of the third-party's generic drug product. A certification that the new product will not infringe the Orange Book-listed patents for EXPAREL, or that such patents are invalid, is called a paragraph IV certification. If the third party submits a paragraph IV certification to the FDA, a notice of the paragraph IV certification must also be sent to us once the third-party's ANDA is accepted for filing by the FDA. We may then initiate a lawsuit to defend the patents identified in the notice. The filing of a patent infringement lawsuit within 45 days of receipt of the notice automatically prevents the FDA from approving the third-party's ANDA until the earliest of 30 months or the date on which the patent expires, the lawsuit is settled, or the court reaches a decision in the infringement lawsuit in favor of the third party. If we do not file a patent infringement lawsuit within the required 45-day period, the third-party's ANDA will not be subject to the 30-month stay. Litigation or other proceedings to enforce or defend intellectual property rights are often very complex in nature, may be very expensive and time-consuming, may divert our management's attention from our core business, and may result in unfavorable results that could adversely impact our ability to prevent third parties from competing with our products.

Because it is difficult and costly to protect our proprietary rights, we may not be able to ensure their protection and all patents will eventually expire.

Our commercial success will depend in part on obtaining and maintaining patent protection and trade secret protection for EXPAREL, DepoCyt(e), DepoDur, DepoFoam and for any other product candidates that we may develop, license or acquire and the methods we use to manufacture them, as well as successfully defending these patents and trade secrets against third-party challenges. We will only be able to protect our technologies from unauthorized use by third parties to the extent that valid and enforceable patents or trade secrets cover them.

The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. No consistent policy regarding the breadth of claims allowed in pharmaceutical or biotechnology patents has emerged to date in the United States. The patent situation outside the United States is even more uncertain. Changes in either the patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowed or enforced in our patents or in third-party patents.

The degree of future protection for our proprietary rights is uncertain, because legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- we may not have been the first to make the inventions covered by each of our pending patent applications and issued patents;
- we may not have been the first to file patent applications for these inventions;
- others may independently develop similar or alternative technologies or duplicate any of our product candidates or technologies;

- it is possible that none of the pending patent applications will result in issued patents;
- the issued patents covering our product candidates may not provide a basis for commercially viable active products, may not provide us with any competitive advantages, or may be challenged by third parties;
- we may not develop additional proprietary technologies that are patentable; or
- patents of others may have an adverse effect on our business.

Patent applications in the United States are maintained in confidence for at least 18 months after their earliest effective filing date. Consequently, we cannot be certain we were the first to invent or the first to file patent applications on EXPAREL, our DepoFoam drug delivery technology or any other product candidates that we may develop, license or acquire. In the event that a third party has also filed a U.S. patent application relating to our product candidates or a similar invention, we may have to participate in interference proceedings declared by the U.S. Patent and Trademark Office to determine priority of invention in the United States. The costs of these proceedings could be substantial and it is possible that our efforts would be unsuccessful, resulting in a material adverse effect on our U.S. patent position. Furthermore, we may not have identified all United States and foreign patents or published applications that affect our business either by blocking our ability to commercialize our drugs or by covering similar technologies that affect our drug market.

In addition, some countries, including many in Europe, do not grant patent claims directed to methods of treating humans, and in these countries patent protection may not be available at all to protect our product candidates. Even if patents issue, we cannot guarantee that the claims of those patents will be valid and enforceable or provide us with any significant protection against competitive products, or otherwise be commercially valuable to us.

Some of our older patents have already expired. In the cases of DepoCyt(e) and DepoDur, key patents providing protection in Europe have expired. In the case of EXPAREL, while pending patent applications, if granted, would provide protection for EXPAREL in Europe and the United States through November 2018, an existing formulation patent for EXPAREL will expire in November 2013. Once our patents covering EXPAREL have expired, we are more reliant on trade secrets to protect against generic competition.

We also rely on trade secrets to protect our technology, particularly where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. While we use reasonable efforts to protect our trade secrets, our licensors, employees, consultants, contractors, outside scientific collaborators and other advisors may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how.

If we fail to obtain or maintain patent protection or trade secret protection for EXPAREL, DepoCyt(e), DepoDur, DepoFoam or any other product candidate that we may develop, license or acquire, third parties could use our proprietary information, which could impair our ability to compete in the market and adversely affect our ability to generate revenues and achieve profitability.

If we are sued for infringing intellectual property rights of third parties, it will be costly and time consuming, and an unfavorable outcome in any litigation would harm our business.

Our ability to develop, manufacture, market and sell EXPAREL, our DepoFoam drug delivery technology or any other product candidates that we may develop, license or acquire depends upon our ability to avoid infringing the proprietary rights of third parties. Numerous U.S. and foreign issued patents and pending patent applications, which are owned by third parties, exist in the general fields of pain management and cancer

treatment and cover the use of numerous compounds and formulations in our targeted markets. Because of the uncertainty inherent in any patent or other litigation involving proprietary rights, we and our licensors may not be successful in defending intellectual property claims by third parties, which could have a material adverse affect on our results of operations. Regardless of the outcome of any litigation, defending the litigation may be expensive, time-consuming and distracting to management. In addition, because patent applications can take many years to issue, there may be currently pending applications, unknown to us, which may later result in issued patents that EXPAREL, DepoCyt(e) or DepoDur may infringe. There could also be existing patents of which we are not aware that EXPAREL, DepoCyt(e) or DepoDur may inadvertently infringe.

There is a substantial amount of litigation involving patent and other intellectual property rights in the biotechnology and biopharmaceutical industries generally. If a third party claims that we infringe on their products or technology, we could face a number of issues, including:

- infringement and other intellectual property claims which, with or without merit, can be expensive and time consuming to litigate and can divert management's attention from our core business;
- substantial damages for past infringement which we may have to pay if a court decides that our product infringes on a competitor's patent;
- a court prohibiting us from selling or licensing our product unless the patent holder licenses the patent to us, which it would not be required to do;
- if a license is available from a patent holder, we may have to pay substantial royalties or grant cross licenses to our patents; and
- redesigning our processes so they do not infringe, which may not be possible or could require substantial funds and time.

We may be subject to claims that our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

As is common in the biotechnology and pharmaceutical industry, we employ individuals who were previously employed at other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although no claims against us are currently pending, we may be subject to claims that these employees or we have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

Risks Related to Our Financial Condition and Capital Requirements

Our independent registered public accounting firm has expressed substantial doubt about our ability to continue as a going concern, which may hinder our ability to obtain future financing.

Our independent registered public accounting firm stated that our financial statements for the year ended December 31, 2009 were prepared assuming that we would continue as a going concern, and that certain matters raise substantial doubt about our ability to continue as a going concern. Such doubts are based on our recurring losses and our working capital and stockholders' deficits. We continue to experience losses. Our ability to continue as a going concern is subject to our ability to generate a profit and/or obtain necessary funding from outside sources, including by the sale of our securities, obtaining loans from financial institutions or other financing arrangements, where possible. Our continued losses and "going concern" audit report increase the difficulty of our meeting such goals and our efforts to continue as a going concern may not prove successful.

We have incurred significant losses since our inception and anticipate that we will incur continued losses for the foreseeable future.

We are an emerging specialty pharmaceutical company with a limited operating history. We have focused primarily on developing EXPAREL with the goal of achieving regulatory approval. We have incurred losses in

each year since our inception in December 2006, including net losses of $31.1 million, $42.5 million and $35.2 million for the years ended December 31, 2009, 2008 and 2007, respectively. As of June 30, 2010, we had an accumulated deficit of $121.1 million. These losses, among other things, have had, and will continue to have, an adverse effect on our stockholders' equity (deficit) and working capital (deficit). We incurred increased pre-commercialization expenses during 2009 as we prepared for the potential market launch of EXPAREL, and we expect to incur significant sales, marketing and manufacturing expenses, as well as continued development expenses related to the commercialization of EXPAREL, if approved by the FDA. As a result, we expect to continue to incur significant losses for the foreseeable future. Because of the numerous risks and uncertainties associated with developing pharmaceutical products, we are unable to predict the extent of any future losses or when we will become profitable, if at all.

We may never become profitable.

Our ability to become profitable depends upon our ability to generate revenue from EXPAREL and to continue to generate revenue from DepoCyt(e) and DepoDur. Our ability to generate revenue depends on a number of factors, including, but not limited to, our ability to:

- continue to manufacture DepoCyt(e) and DepoDur for sale by our commercial partners;
- obtain regulatory approval for EXPAREL, or any other product candidates that we may develop, license or acquire;
- manufacture commercial quantities of EXPAREL, if approved, at acceptable cost levels; and
- develop a commercial organization and the supporting infrastructure required to successfully market and sell EXPAREL, if it is approved.

If EXPAREL is approved for commercial sale, we anticipate incurring significant costs associated with its commercialization. We also do not anticipate that we will achieve profitability for a period of time after generating material revenues, if ever. If we are unable to generate revenues, we will not become profitable and may be unable to continue operations without continued funding.

Under our financing arrangement with Paul Capital, upon the occurrence of certain events, Paul Capital may require us to repurchase the right to receive royalty payments that we assigned to it, or may foreclose on certain assets that secure our obligations to Paul Capital. Any exercise by Paul Capital of its right to cause us to repurchase the assigned right or any foreclosure by Paul Capital would adversely affect our results of operations and our financial condition.

On March 23, 2007, we entered into the Amended and Restated Royalty Interests Assignment Agreement with affiliates of Paul Capital, pursuant to which we assigned to Paul Capital the right to receive a portion of our royalty payments from DepoCyt(e) and DepoDur. To secure our obligations to Paul Capital, we granted Paul Capital a security interest in collateral which includes the royalty payments we are entitled to receive with respect to sales of DepoCyt(e) and DepoDur, as well as to bank accounts to which such payments are deposited. Under our arrangement with Paul Capital, upon the occurrence of certain events, or the put events, including if we experience a change of control, we or our subsidiary undergo certain bankruptcy events, transfer any or substantially all of our rights in DepoCyt(e) or DepoDur, transfer all or substantially all of our assets, breach certain of the covenants, representations or warranties under the Amended and Restated Royalty Interests Assignment Agreement, or sales of DepoCyt(e) or DepoDur are suspended due to an injunction or if we elect to suspend sales of DepoCyt(e) or DepoDur as a result of a lawsuit filed by certain third parties, Paul Capital may (i) require us to repurchase the rights we assigned to it at a cash price equal to (a) 50% of all cumulative payments made by us to Paul Capital under the Amended and Restated Royalty Interests Assignment Agreement during the preceding 24 months, multiplied by (b) the number of days from the date of Paul Capital's exercise of such option until December 31, 2014, divided by 365. Any exercise by Paul Capital of its right to cause us to repurchase the assigned right or any foreclosure by Paul Capital would adversely affect our results of operations and our financial condition.

Our debt obligations expose us to risks that could adversely affect our business, operating results and financial condition.

We have a substantial level of debt. As of September 30, 2010, we had $51.25 million in aggregate principal amount of indebtedness outstanding, not including our obligation under the Amended and Restated Royalty Interests Assignment Agreement with Paul Capital. We expect that approximately $40.0 million of outstanding indebtedness will convert to common stock upon the completion of this offering, and $11.25 million in aggregate principal amount of our outstanding indebtedness will not convert to common stock upon the completion of this offering. The level and nature of our indebtedness, among other things, could:

- make it difficult for us to make payments on our outstanding debt from time to time or to refinance it;
- make it difficult for us to obtain any necessary financing in the future for working capital, capital expenditures, debt service, product and company acquisitions or general corporate purposes;
- limit our flexibility in planning for or reacting to changes in our business including life cycle management;
- reduce funds available for use in our operations;
- impair our ability to incur additional debt because of financial and other restrictive covenants;
- make us more vulnerable in the event of a downturn in our business;
- place us at a possible competitive disadvantage relative to less leveraged competitors and competitors that have better access to capital resources;
- restrict the operations of our business as a result of provisions in the Amended and Restated Royalty Interests Assignment Agreement with Paul Capital that restrict our ability to (i) amend, waive any rights under, or terminate any material agreements relating to DepoCyt(e) and DepoDur, (ii) enter into any new agreement or amend or fail to exercise any of our material rights under existing agreements that would materially adversely affect Paul Capital's royalty interest, and (iii) sell any material assets related to DepoCyt(e) or DepoDur; or
- impair our ability to merge or otherwise effect the sale of the Company due to the right of the holders of certain of our indebtedness to accelerate the maturity date of the indebtedness in the event of a change of control of the Company.

We will need to raise additional capital to pay our indebtedness as it comes due. If we are unable to obtain funds necessary to make required payments, or if we fail to comply with the various requirements of our indebtedness, we would be in default, which would permit the holders of our indebtedness to accelerate the maturity of the indebtedness and could cause defaults under any indebtedness we may incur in the future. Any default under our indebtedness would have a material adverse effect on our business, operating results and financial condition. If we are unable to refinance or repay our indebtedness as it becomes due, we may become insolvent and be unable to continue operations.

For example, our loan and security agreement governing the credit facility with General Electric Capital Corporation, or the GECC Credit Facility, contains a number of affirmative and restrictive covenants including reporting requirements, compliance with laws, protection of intellectual property and other collateral covenants, and limitations, subject to certain exceptions set forth in the loan and security agreement, on liens and indebtedness, limitations on dispositions, limitations on mergers and acquisitions, limitations on restricted payments and investments, limitations on transactions with our affiliates, limitations on changes in business, limitations on amendments and waivers of certain agreements, and limitations on waivers and amendments to certain agreements, including certain portions of the Amended and Restated Royalty Interests Assignment Agreement, our organizational documents, and documents relating to debt that is subordinate to our obligations under the GECC Credit Facility. Our failure to comply with the covenants in the loan and security agreement governing the GECC Credit Facility could result in an event of default that, if not cured or waived, could result in the acceleration of all or a substantial portion of our debt and potential foreclosure on the assets pledged to secure the debt.

Our short operating history makes it difficult to evaluate our business and prospects.

We were incorporated in December 2006 and have only been conducting operations with respect to EXPAREL since March 2007. Our operations to date have been limited to organizing and staffing our company, conducting product development activities, including clinical trials and manufacturing development activities, for EXPAREL and manufacturing and related activities for DepoCyt(e) and DepoDur. Further, in 2010 we began to establish our commercial infrastructure for EXPAREL. We have not yet demonstrated an ability to obtain regulatory approval for or successfully commercialize a product candidate. Consequently, any predictions about our future performance may not be as accurate as they could be if we had a history of successfully developing and commercializing pharmaceutical products.

We will need additional funding and may be unable to raise capital when needed, which would force us to delay, reduce or eliminate our product development programs or commercialization efforts.

Developing products for use in the hospital setting, conducting clinical trials, establishing outsourced manufacturing relationships and successfully manufacturing and marketing drugs that we may develop is expensive. We will need to raise additional capital to:

- fund our operations and continue our efforts to hire additional personnel and build a commercial infrastructure to prepare for the commercialization of EXPAREL, if approved by the FDA;
- qualify and outsource the commercial-scale manufacturing of our products under cGMP; and
- in-license and develop additional product candidates.

Throughout 2009 and 2010, we generated net proceeds of approximately $40 million through several private placements of secured and unsecured notes and net proceeds of approximately $11.25 million under the GECC Credit Facility. We believe that with our currently available cash and cash equivalent balance, along with the net proceeds from this offering, we have sufficient funds to meet our projected operating requirements and service our indebtedness for at least the next 12 months. We have based this estimate on assumptions that may prove to be wrong and we could spend our available financial resources faster than we currently expect. Further, we may not have sufficient financial resources to meet all of our objectives if EXPAREL is approved, which could require us to postpone, scale back or eliminate some, or all, of these objectives, including our potential launch activities. Our future funding requirements will depend on many factors, including, but not limited to:

- the potential for delays in our efforts to seek regulatory approval for EXPAREL, and any costs associated with such delays;
- the costs of establishing a commercial organization to sell, market and distribute EXPAREL;
- the rate of progress and costs of our efforts to prepare for the submission of an NDA for any product candidates that we may in-license or acquire in the future, and the potential that we may need to conduct additional clinical trials to support applications for regulatory approval;
- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights associated with our product candidates, including any such costs we may be required to expend if our licensors are unwilling or unable to do so;
- the cost and timing of manufacturing sufficient supplies of EXPAREL in preparation for commercialization;
- the effect of competing technological and market developments;
- the terms and timing of any collaborative, licensing, co-promotion or other arrangements that we may establish;
- if EXPAREL is approved, the potential that we may be required to file a lawsuit to defend our patent rights or regulatory exclusivities from challenges by companies seeking to market generic versions of extended-release liposome injection of bupivacaine; and
- the success of the commercialization of EXPAREL.

Future capital requirements will also depend on the extent to which we acquire or invest in additional complementary businesses, products and technologies.

Until we can generate a sufficient amount of product revenue, if ever, we expect to finance future cash needs through public or private equity offerings, debt financings, product supply revenue and royalties, corporate collaboration and licensing arrangements, as well as through interest income earned on cash and investment balances. We cannot be certain that additional funding will be available on acceptable terms, or at all. If adequate funds are not available, we may be required to delay, reduce the scope of, or eliminate, one or more of our development programs or our commercialization efforts.

Our quarterly operating results may fluctuate significantly.

We expect our operating results to be subject to quarterly fluctuations. Our net loss and other operating results will be affected by numerous factors, including:

- whether the FDA requires us to complete additional, unanticipated studies, tests or other activities prior to approving EXPAREL, which would likely further delay any such approval;
- if EXPAREL is approved, our ability to establish the necessary commercial infrastructure to launch this product candidate without substantial delays, including hiring sales and marketing personnel and contracting with third parties for warehousing, distribution, cash collection and related commercial activities;
- maintaining our existing manufacturing facilities and expanding our manufacturing capacity, including installing specialized processing equipment for the manufacturing of EXPAREL;
- our execution of other collaborative, licensing or similar arrangements and the timing of payments we may make or receive under these arrangements;
- variations in the level of expenses related to our future development programs;
- any product liability or intellectual property infringement lawsuit in which we may become involved;
- regulatory developments affecting EXPAREL or the product candidates of our competitors; and
- if EXPAREL receives regulatory approval, the level of underlying hospital demand for this product candidate and wholesaler buying patterns.

If our quarterly or annual operating results fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially. Furthermore, any quarterly or annual fluctuations in our operating results may, in turn, cause the price of our stock to fluctuate substantially. We believe that quarterly comparisons of our financial results are not necessarily meaningful and should not be relied upon as an indication of our future performance.

Raising additional funds by issuing securities may cause dilution to existing stockholders and raising funds through lending and licensing arrangements may restrict our operations or require us to relinquish proprietary rights.

To the extent that we raise additional capital by issuing equity securities, our existing stockholders' ownership will be diluted. If we raise additional funds through licensing arrangements, it may be necessary to relinquish potentially valuable rights to our potential products or proprietary technologies, or grant licenses on terms that are not favorable to us. Any debt financing we enter into may involve covenants that restrict our operations. These restrictive covenants may include limitations on additional borrowing and specific restrictions on the use of our assets as well as prohibitions on our ability to create liens, pay dividends, redeem our stock or make investments.

We will incur significant increased costs as a result of operating as a public company.

As a public company, we will incur significant legal, accounting, insurance and other expenses that we have not incurred as a private company, including costs associated with public company reporting requirements. We

also have incurred and will incur costs associated with complying with the requirements of the Sarbanes-Oxley Act of 2002 and related rules implemented by the Securities and Exchange Commission and The NASDAQ Global Market. The expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, although we are currently unable to estimate these costs with any degree of certainty. These laws and regulations could also make it more difficult or costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. These laws and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as our executive officers. Furthermore, if we are unable to satisfy our obligations as a public company, we could be subject to delisting of our common stock, fines, sanctions and other regulatory action and potentially civil litigation.

Compliance with Section 404 of the Sarbanes-Oxley Act of 2002 will require our management to devote substantial time to new compliance initiatives, and if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal controls, our stock price could be adversely affected.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, we will be required to furnish a report by our management on, and our independent registered public accounting firm to attest to, the effectiveness of our internal control over financial reporting. We have not been subject to these requirements in the past. The internal control report must contain (i) a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting, (ii) a statement identifying the framework used by management to conduct the required evaluation of the effectiveness of our internal control over financial reporting, (iii) management's assessment of the effectiveness of our internal control over financial reporting as of the end of our most recent fiscal year, including a statement as to whether or not internal control over financial reporting is effective, and (iv) a statement that our independent registered public accounting firm has issued an attestation report on internal control over financial reporting.

To achieve compliance with Section 404 within the prescribed period, we will be engaged in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, hire additional employees for our finance and audit functions, potentially engage outside consultants and adopt a detailed work plan to (i) assess and document the adequacy of internal control over financial reporting, (ii) continue steps to improve control processes where appropriate, (iii) validate through testing that controls are functioning as documented, and (iv) implement a continuous reporting and improvement process for internal control over financial reporting. In addition, in connection with the attestation process by our independent registered public accounting firm, we may encounter problems or delays in completing the implementation of any requested improvements and receiving a favorable attestation. If we cannot favorably assess the effectiveness of our internal control over financial reporting, or if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal controls, investors could lose confidence in our financial information and our stock price could decline.

The use of our net operating loss carryforwards and research tax credits may be limited.

Our net operating loss carryforwards and research and development tax credits may expire and not be used. As of December 31, 2009, we had federal and state net operating loss carryforwards of approximately $82.4 million and $59.0 million, respectively, and we also had federal and state research and development tax credit carryforwards of approximately $2.2 million and $0.9 million, respectively. Our net operating loss carryforwards will begin expiring in 2026 for federal purposes and 2016 for state purposes if we have not used them prior to that time, and our federal tax credits will begin expiring in 2027 unless previously used. Our state tax credits carryforward indefinitely. Additionally, our ability to use any net operating loss and credit carryforwards to offset taxable income or tax, respectively, in the future will be limited under Internal Revenue

Code Sections 382 and 383 if we have a cumulative change in ownership of more than 50% within a three-year period. The completion of this offering, together with private placements and other transactions that have occurred, may trigger, or may have already triggered such an ownership change. In addition, since we will need to raise substantial additional funding to finance our operations, we may undergo further ownership changes in the future. Following the Acquisition, we have not completed an analysis as to whether such a change of ownership has occurred, but in such an event, we will be limited regarding the amount of net operating loss carryforwards and research tax credits that could be utilized annually in the future to offset taxable income or tax, respectively. Any such annual limitation may significantly reduce the utilization of the net operating loss carryforwards and research tax credits before they expire. In addition, California and certain states have suspended use of net operating loss carryforwards for certain taxable years, and other states are considering similar measures. As a result, we may incur higher state income tax expense in the future. Depending on our future tax position, continued suspension of our ability to use net operating loss carryforwards in states in which we are subject to income tax could have an adverse impact on our results of operations and financial condition.

Our results of operations and liquidity needs could be materially negatively affected by market fluctuations and economic downturn.

Our results of operations could be materially negatively affected by economic conditions generally, both in the United States and elsewhere around the world. Continuing concerns over inflation, energy costs, geopolitical issues, the availability and cost of credit, the U.S. mortgage market and a declining residential real estate market in the United States have contributed to increased volatility and diminished expectations for the economy and the markets going forward. These factors, combined with volatile oil prices, declining business and consumer confidence and increased unemployment, have precipitated an economic recession and fears of a possible depression. Domestic and international equity markets continue to experience heightened volatility and turmoil. These events and the continuing market upheavals may have an adverse effect on us. In the event of a continuing market downturn, our results of operations could be adversely affected by those factors in many ways, including making it more difficult for us to raise funds if necessary, and our stock price may further decline.

Risks Related to this Offering and Ownership of Our Common Stock

There is no established public market for our stock and a public market may not be obtained or be liquid and therefore you may not be able to sell your shares.

Prior to this offering, there has not been a public market for our common stock. If an active trading market for our common stock does not develop following this offering, you may not be able to sell your shares quickly or at the market price. The initial public offering price for the shares will be determined by negotiations between us and representatives of the underwriters and may not be indicative of prices that will prevail in the subsequent trading market.

The market price of our common stock may be highly volatile, and you may not be able to resell your shares at or above the initial public offering price.

The trading price of our common stock is likely to be volatile. Our stock price could be subject to wide fluctuations in response to a variety of factors, including the following:

- any delay in the FDA approving our NDA for EXPAREL;
- the commercial success of EXPAREL, if approved by the FDA;
- results of clinical trials of our product candidates or those of our competitors;
- changes or developments in laws or regulations applicable to our product candidates;
- introduction of competitive products or technologies;
- failure to meet or exceed financial projections we provide to the public;

- actual or anticipated variations in quarterly operating results;
- failure to meet or exceed the estimates and projections of the investment community;
- the perception of the pharmaceutical industry by the public, legislatures, regulators and the investment community;
- general economic and market conditions and overall fluctuations in U.S. equity markets;
- developments concerning our sources of manufacturing supply;
- disputes or other developments relating to patents or other proprietary rights;
- additions or departures of key scientific or management personnel;
- issuances of debt, equity or convertible securities;
- changes in the market valuations of similar companies; and
- the other factors described in this "Risk Factors" section.

In addition, the stock market in general, and the market for small pharmaceutical and biotechnology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance.

Our principal stockholders and management own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.

Upon completion of this offering, our executive officers, directors and 5% stockholders and their affiliates will beneficially own approximately % of our outstanding voting stock, excluding any shares of common stock that our existing stockholders may purchase in this offering. As a result, these stockholders will have significant influence and may be able to determine all matters requiring stockholder approval. For example, these stockholders may be able to control elections of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transaction. This concentration of ownership could delay or prevent any acquisition of our company on terms that other stockholders may desire.

If you purchase our common stock in this offering, you will incur immediate and substantial dilution in the book value of your shares.

The initial public offering price is substantially higher than the net tangible book value per share of our common stock. Investors purchasing common stock in this offering will pay a price per share that substantially exceeds the book value of our tangible assets after subtracting our liabilities. As a result, investors purchasing common stock in this offering will incur immediate dilution of $ per share. Further, investors purchasing common stock in this offering will contribute approximately % of the total amount invested by stockholders since our inception, but will own only approximately % of the shares of our common stock outstanding.

This dilution is due to the substantially lower price paid by our investors who purchased shares prior to this offering as compared to the price offered to the public in this offering, and the exercise of stock options granted to our employees. In addition, as of September 30, 2010, options to purchase 16,182,011 shares of our common stock at a weighted average exercise price of $0.15 per share and warrants exercisable for up to 1,700,000 shares of our common stock at weighted average exercise price of $0.25 per share and up to 250,000 shares of our Series A convertible preferred stock at weighted average exercise price of $1.25 per share were outstanding. The exercise of any of these options or warrants would result in additional dilution. As a result of the dilution to investors purchasing shares in this offering, investors may receive significantly less than the purchase price paid in this offering, if anything, in the event of a liquidation or sale of our company.

Sales of a substantial number of shares of our common stock in the public market by our existing stockholders could cause our stock price to fall.

Sales of a substantial number of shares of our common stock in the public market or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise adequate capital through the sale of additional equity securities. We are unable to predict the effect that sales may have on the prevailing market price of our common stock.

Substantially all of our existing stockholders are subject to lock-up agreements with the underwriters of this offering that restrict the stockholders' ability to transfer shares of our common stock for at least 180 days from the date of this prospectus, subject to certain exceptions. The lock-up agreements limit the number of shares of common stock that may be sold immediately following the public offering. Subject to certain limitations, 105,074,256 shares will become eligible for sale upon expiration of the lock-up period. In addition, shares issued or issuable upon exercise of options and warrants vested as of the expiration of the lock-up period will be eligible for sale at that time. Sales of stock by these stockholders could have a material adverse effect on the market price of our common stock.

Certain holders of shares of our common stock are entitled to rights with respect to the registration of their shares under the Securities Act of 1933, as amended, or the Securities Act, subject to the 180-day lock-up arrangement described above. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by our affiliates as defined in Rule 144 under the Securities Act. Any sales of securities by these stockholders could have a material adverse effect on the trading price of our common stock.

Our management will have broad discretion in the use of the net proceeds from this offering and may not use them effectively.

Our management will have broad discretion in the application of the net proceeds from this offering and our stockholders will not have the opportunity as part of their investment decision to assess whether the net proceeds are being used appropriately. Because of the number and variability of factors that will determine our use of the net proceeds from this offering, their ultimate use may vary substantially from their currently intended use. The failure by our management to apply these funds effectively could harm our business. Pending their use, we may invest the net proceeds from this offering in short-term, investment-grade, interest-bearing instruments and U.S. government securities. These investments may not yield a favorable return to our stockholders.

Because we do not intend to pay dividends on our common stock, your returns will be limited to any increase in the value of our stock.

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings to support our operations and finance the growth and development of our business and do not anticipate declaring or paying any cash dividends on our common stock for the foreseeable future. Any return to stockholders will therefore be limited to the appreciation of their stock, if any.

Some provisions of our charter documents and Delaware law may have anti-takeover effects that could discourage an acquisition of us by others, even if an acquisition would be beneficial to our stockholders, and may prevent attempts by our stockholders to replace or remove our current management.

Provisions in our restated certificate of incorporation and our bylaws that will become effective following the completion of this offering, as well as provisions of the Delaware General Corporation Law, or DGCL, could make it more difficult for a third party to acquire us or increase the cost of acquiring us, even if doing so would benefit our stockholders, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions include:

- authorizing the issuance of "blank check" preferred stock, the terms of which may be established and shares of which may be issued without stockholder approval;

- prohibiting stockholder action by written consent, thereby requiring all stockholder actions to be taken at a meeting of our stockholders;
- eliminating the ability of stockholders to call a special meeting of stockholders; and
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at stockholder meetings.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, we are subject to Section 203 of the DGCL, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with an interested stockholder for a period of three years following the date on which the stockholder became an interested stockholder, unless such transactions are approved by our board of directors. This provision could have the effect of delaying or preventing a change of control, whether or not it is desired by or beneficial to our stockholders.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements that involve substantial risks and uncertainties. All statements, other than statements of historical facts, included in this prospectus regarding our strategy, future operations, regulatory process, future financial position, future revenue, projected costs, prospects, plans, objectives of management and expected market growth are forward-looking statements. The words "anticipate," "believe," "estimate," "expect," "intend," "may," "plan," "predict," "project," "will," "would" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words.

The forward-looking statements in this prospectus include, among other things, statements about:

- our plans to develop and commercialize EXPAREL;
- our plans to continue to manufacture and provide support services for our commercial partners who have licensed DepoCyt(e) and DepoDur;
- the timing of, and our ability to obtain, regulatory approval of EXPAREL;
- the timing of our anticipated commercial launch of EXPAREL;
- the rate and degree of market acceptance of EXPAREL;
- the size and growth of the potential markets for EXPAREL and our ability to serve those markets;
- our plans to expand the indications of EXPAREL to include nerve block and epidural administration;
- our commercialization and marketing capabilities;
- regulatory developments in the United States and foreign countries;
- our ability to obtain and maintain intellectual property protection;
- the accuracy of our estimates regarding expenses and capital requirements; and
- the loss of key scientific or management personnel.

We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have included important factors in the cautionary statements included in this prospectus, particularly in the "Risk Factors" section, that could cause actual results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments that we may make.

You should read this prospectus and the documents that we have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect. We do not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

USE OF PROCEEDS

We estimate that the net proceeds from this offering will be approximately $ million (or approximately $ million if the underwriters exercise their option to purchase additional shares from us in full), based on an assumed initial public offering price of $ per share, which is the midpoint of the estimated price range shown on the cover of this prospectus, and after deducting the estimated underwriting discounts and commissions and offering expenses payable by us.

A $1.00 increase or decrease in the assumed initial public offering price of $ would increase or decrease the net proceeds to us from this offering by $ million, after deducting the estimated underwriting discounts and commissions and offering expenses payable by us.

We intend to use the net proceeds from this offering for the planned manufacture and commercialization of EXPAREL in the United States, to continue the development of EXPAREL for additional indications, if it is approved by the FDA, and the balance, if any, for working capital and other general corporate purposes, which may include the acquisition or licensing of other products or technologies or the acquisition of other businesses in the biotechnology or specialty pharmaceuticals industry.

The amounts and timing of our actual expenditures may vary significantly depending on numerous factors, including:

- the timing and outcome of the FDA's review of the NDA for EXPAREL;
- the extent to which the FDA may require us to perform additional clinical trials for EXPAREL;
- the timing and success of this offering;
- the costs of our commercialization activities for EXPAREL, if it is approved by the FDA;
- the cost and timing of expanding our manufacturing facilities and purchasing manufacturing and other capital equipment for EXPAREL and our other product candidates;
- the scope, progress, results and costs of development for additional indications for EXPAREL and for our other product candidates;
- the cost, timing and outcome of regulatory review of our other product candidates;
- the extent to which we acquire or invest in products, businesses and technologies;
- the extent to which we choose to establish collaboration, co-promotion, distribution or other similar agreements for product candidates;
- the costs of preparing, submitting and prosecuting patent applications and maintaining, enforcing and defending intellectual property claims; and
- any unforeseen or underestimated cash needs.

We therefore cannot estimate the amount of net proceeds to be used for all of the purposes described above. We may find it necessary or advisable to use the net proceeds for other purposes, and we will have broad discretion in the application of net proceeds.

Following this offering, we believe that our available funds will be sufficient to complete the development of EXPAREL through FDA approval and to fund the expected commercial launch of EXPAREL in the United States in the fourth quarter of 2011. It is possible that we will not achieve the progress that we expect with respect to EXPAREL because the actual costs, timing of development and regulatory approval are difficult to predict and are subject to substantial risks and delays. We have no committed external sources of funds. To the extent that the net proceeds from this offering and our other capital resources are insufficient to complete clinical development of, obtain regulatory approval for, and, if approved, commercially launch EXPAREL, we will need

to finance our cash needs through public or private equity offerings, debt financings, corporate collaboration and licensing arrangements or other financing alternatives.

Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term, investment-grade, interest-bearing instruments and U.S. government securities.

DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain earnings, if any, to finance the growth and development of our business. We do not expect to pay any cash dividends on our common stock in the foreseeable future. Payment of future dividends, if any, will be at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, restrictions contained in current or future financing instruments, provisions of applicable law and other factors the board deems relevant. Our ability to pay dividends on our common stock is limited by the covenants of our loan and security agreement governing the GECC Credit Facility and may be further restricted by the terms of any of our future indebtedness. See "Risk Factors—Risks Related to Our Financial Condition and Capital Requirements—Our debt obligations expose us to risks that could adversely affect our business, operating results and financial condition."

CAPITALIZATION

The following table sets forth our capitalization as of June 30, 2010:

- on an actual basis;
- on a pro forma basis to reflect (1) the automatic conversion of all outstanding shares of our Series A convertible preferred stock into common stock upon the completion of this offering, (2) the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest on secured and unsecured notes held by certain of our stockholders into common stock upon the completion of this offering and (3) the one-for- reverse split of our common stock to be effected prior to the completion of this offering, (4) the filing of our restated certificate of incorporation prior to the completion of this offering; and
- on a pro forma as adjusted basis to reflect (1) the automatic conversion of all outstanding shares of our Series A convertible preferred stock into common stock upon the completion of this offering, (2) the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest on secured and unsecured notes held by certain of our stockholders into common stock upon the completion of this offering, (3) the one-for- reverse split of our common stock to be effected prior to the completion of this offering, (4) the filing of our restated certificate of incorporation prior to the completion of this offering, and (5) our issuance and sale of shares of common stock in this offering at an assumed initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus, after deducting the estimated underwriting discount and offering expenses payable by us.

You should read this table together with our consolidated financial statements and the related notes included elsewhere in this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Use of Proceeds" and "Selected Consolidated Financial Data."

	As of June 30, 2010		
	Actual	Pro Forma (1)	Pro Forma As Adjusted
	(in thousands, except per share amounts)		
Cash and cash equivalents	$ 12,353	$ 22,665	$
Related party debt, excluding current portion	$ 37,277	$ —	$
Long-term debt, excluding current portion	5,625	11,250	
Royalty interest obligation, excluding current portion	3,481	3,481	
Total debt	$ 46,383	$ 14,731	$
Series A convertible preferred stock, $0.001 par value: actual, 88,000,000 shares authorized, 68,000,000 shares issued and outstanding; pro forma and pro forma as adjusted, no shares authorized, issued and outstanding	$ 68	$ —	$
Common stock, $0.001 par value: actual, 120,000,000 shares authorized, 6,178,838 shares issued and outstanding; pro forma, 120,000,000 shares authorized, 109,291,553 shares issued and outstanding; pro forma as adjusted, shares authorized, shares issued and outstanding	6	109	
Additional paid-in capital	86,751	120,286	
Accumulated deficit	(121,056)	(121,056)	
Total stockholders' deficit	$ (34,231)	$ (661)	$
Total capitalization	$ 12,152	$ 14,070	$

(1) Pro forma includes impact of $4,687,500 of related party debt and $5,625,000 of long-term debt borrowed after June 30, 2010 under the GECC Credit Facility.

Each $1.00 increase or decrease in the assumed initial public offering price of $ would increase or decrease each of additional paid-in capital and total stockholders' equity in the pro forma as adjusted column by $ million, assuming the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting the estimated underwriting discount and offering expenses payable by us.

The table above does not include:

- 1,950,000 shares of common stock issuable upon the exercise of warrants outstanding and exercisable as of June 30, 2010, at a weighted average exercise price of $0.38 per share;
- 617,386 shares of common stock issuable upon the exercise of stock options outstanding as of June 30, 2010, at a weighted average exercise price of $0.15 per share; and
- 9,678,776 shares of common stock available for future issuance under our equity compensation plans as of June 30, 2010.

DILUTION

If you invest in our common stock, your interest will be diluted immediately to the extent of the difference between the initial public offering price per share you will pay in this offering and the pro forma as adjusted net tangible book value per share of our common stock after this offering. Our pro forma historical net tangible book value as of June 30, 2010 was $ million, or $ per share of common stock. Our pro forma net tangible book value per share set forth below represents our total tangible assets less total liabilities and Series A convertible preferred stock, divided by the number of shares of our common stock outstanding on June 30, 2010, after giving effect to the automatic conversion of all of our outstanding shares of Series A convertible preferred stock into shares of our common stock immediately prior to the completion of this offering and the conversion of $ aggregate principal amount and all accrued and unpaid interest on secured and unsecured notes held by certain of our stockholders into common stock immediately prior to the completion of this offering.

After giving effect to our issuance and sale of shares of common stock in this offering at an assumed initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions and offering expenses payable by us, the pro forma as adjusted net tangible book value as of June 30, 2010 would have been $ million, or $ per share. This represents an immediate increase in net tangible book value to existing stockholders of $ per share. The initial public offering price per share will significantly exceed the net tangible book value per share. Accordingly, new investors who purchase shares of common stock in this offering will suffer an immediate dilution of their investment of $ per share. The following table illustrates this per share dilution to the new investors purchasing shares of common stock in this offering without giving effect to the over-allotment option granted to the underwriters:

Assumed initial public offering price per share		$
Pro forma net tangible book value per share as of June 30, 2010	$	
Increase per share attributable to sale of shares of common stock in this offering		
Pro forma as adjusted net tangible book value per share after the offering		
Dilution per share to new investors		$

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share would increase or decrease the pro forma net tangible book value by $ million, the pro forma net tangible book value per share after this offering by $ per share and the dilution in pro forma net tangible book value per share to investors in this offering by $ per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discount and offering expenses payable by us.

If the underwriters exercise their over-allotment option in full, the pro forma as adjusted net tangible book value will increase to $ per share, representing an immediate increase to existing stockholders of $ per share and an immediate dilution of $ per share to new investors. If any shares are issued upon exercise of outstanding options or warrants, you will experience further dilution.

The following table summarizes, on a pro forma basis as of June 30, 2010, after giving effect to the conversion of all of our outstanding Series A convertible preferred stock into common stock, the differences between the number of shares of common stock purchased from us, the total consideration paid to us and the average price per share paid by existing stockholders and by new investors purchasing shares of common stock in this offering. The calculation below is based on an assumed initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus, before the deduction of the estimated underwriting discounts and commissions and offering expenses payable by us:

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	%	Amount	%	
Existing stockholders		%	$	%	$
New investors					$
Total		100%	$	100%	

The number of shares purchased from us by existing stockholders is based on 109,291,553 shares of our common stock outstanding as of June 30, 2010 after giving effect to the automatic conversion of all of our outstanding shares of Series A convertible preferred stock into common stock upon the completion of this offering and the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest on secured and unsecured notes held by certain of our stockholders into common stock upon the completion of this offering. This number excludes:

- 1,950,000 shares of common stock issuable upon the exercise of warrants outstanding and exercisable as of June 30, 2010, at a weighted average exercise price of $0.38 per share;
- 617,386 shares of common stock issuable upon the exercise of stock options outstanding as of June 30, 2010, at a weighted average exercise price of $0.15 per share; and
- 9,678,776 shares of common stock available for future issuance under our equity compensation plans as of June 30, 2010.

If the underwriters exercise their option to purchase additional shares from us in full, the number of shares held by new investors will increase to , or % of the total number of shares of common stock outstanding after this offering and the shares held by existing stockholders will decrease to , or % of the total shares outstanding.

SELECTED CONSOLIDATED FINANCIAL DATA

The following selected consolidated financial data should be read together with our consolidated financial statements and accompanying notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere in this prospectus. The selected consolidated financial data in this section is not intended to replace our consolidated financial statements and the accompanying notes. Our historical results are not necessarily indicative of our future results.

- The selected consolidated financial data as of December 31, 2008 and 2009, and for the years ended December 31, 2007, 2008 and 2009 have been derived from our consolidated financial statements included elsewhere in this prospectus, which have been audited by J.H. Cohn LLP, an independent registered public accounting firm.
- The selected consolidated financial data as of June 30, 2010, and for the six months ended June 30, 2009 and 2010, have been derived from our unaudited consolidated financial statements included elsewhere in this prospectus.
- The selected consolidated financial data as of December 31, 2007 have been derived from our consolidated financial statements not contained herein.
- The selected consolidated financial data as of December 31, 2005 and December 31, 2006, and for the years ended December 31, 2005 and December 31, 2006, and for the period from January 1, 2007 through March 23, 2007, have been derived from unaudited consolidated financial statements of the Predecessor, SkyePharma, Inc., not included in this prospectus.

The unaudited consolidated financial data include, in the opinion of our management, all adjustments, consisting only of normal recurring adjustments, that are necessary for a fair presentation of our financial position and results of operations for these periods. Our historical results for any prior period are not necessarily indicative of results to be expected in any future period, and our results for any interim period are not necessarily indicative of results to be expected for a full fiscal year.

The term Predecessor refers to SkyePharma, Inc. prior to March 24, 2007, or the Acquisition Date, and the term Successor refers to Pacira Pharmaceuticals, Inc. and its consolidated subsidiaries. Our results of operations for the year ended December 31, 2007, while representing a full year for Pacira Pharmaceuticals, Inc., do not reflect the operations of PPI-California until March 24, 2007, after the Acquisition Date. We have presented the Predecessor for the period from January 1, 2007 through March 23, 2007, as we believe it best presents the continuity of operations of the Successor prior to the Acquisition. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations" for a discussion of the presentation of our results for the year ended December 31, 2007.

	Predecessor			Successor				
	Year Ended December 31,		January 1, 2007 to March 23, 2007	Year Ended December 31,			Six Months Ended June 30,	
	2005	2006		2007	2008	2009	2009	2010
	(unaudited)			(audited)			(unaudited)	
				(in thousands, except share and per share data)				
Consolidated Statement of Operations Data:								
Revenues:								
Supply revenue	$ 3,647	$ 5,800	$ 684	$ 5,444	$ 6,852	$ 6,324	$ 2,459	$ 4,383
Royalties	1,813	2,784	500	2,388	3,648	4,044	1,917	1,670
Collaborative licensing and development revenue	13,630	3,088	204	509	3,425	4,638	2,586	1,786
Revenue from SkyePharma PLC	1,927	702	39	—	—	—	—	—
Total revenues	21,017	12,374	1,427	8,341	13,925	15,006	6,962	7,839
Operating expenses:								
Cost of revenues	15,312	15,782	2,825	9,492	17,463	12,301	6,104	6,595
Research and development	21,280	16,060	3,251	21,247	34,067	27,042	13,147	9,775
Selling, general and administrative	12,768	8,685	2,632	3,588	7,758	4,211	2,329	1,712
Acquired in-process research and development	—	—	—	12,400	—	—	—	—
Total operating expenses	49,360	40,527	8,708	46,727	59,288	43,554	21,580	18,082
(Loss) from operations:	(28,343)	(28,153)	(7,281)	(38,386)	(45,363)	(28,548)	(14,618)	(10,243)
Other income (expense)	1,525	(2,713)	(13)	16	(224)	367	(29)	68
Interest income (expense)								
Interest income	25	60	4	491	235	77	43	73
Interest (expense)	(8,485)	(11,221)	(2,265)	—	—	(1,723)	(519)	(1,499)
Royalty interest obligation	961	4,694	(1,486)	2,711	2,817	(1,318)	(1,021)	(607)
Net income (loss)	$ (34,317)	$ (37,333)	$ (11,041)	$ (35,168)	$ (42,535)	$ (31,145)	$ (16,144)	$ (12,208)
Net (loss) per share applicable to common stockholders —basic and diluted				$ (7.03)	$ (7.49)	$ (5.05)	$ (2.62)	$ (1.98)
Weighted average number of common shares used in net (loss) per share calculation				5,000,000	5,682,481	6,163,884	6,158,644	6,177,742
Pro forma net (loss) per share —basic and diluted (unaudited)						$ (0.34)		$ (0.12)
Shares used in computing pro forma loss per share —basic and diluted (unaudited)						91,902,490		103,999,007

	Predecessor		Successor			
	December 31,		December 31,			June 30,
	2005	2006	2007	2008	2009	2010
	(unaudited)		(unaudited)			(unaudited)
			(in thousands)			
Consolidated Balance Sheet Data:						
Cash and cash equivalents	$ 911	$ 627	$ 7,240	$ 12,386	$ 7,077	$ 12,353
Working capital (deficit)	17,004	27,010	1,993	(1,307)	(2,340)	4,790
Total assets	61,698	63,188	39,157	50,541	43,954	50,240
Total long-term debt	28,789	21,648	8,241	3,618	25,820	46,383
Convertible preferred stock, par value	—	—	36	68	68	68
Common stock, par value	—	—	5	6	6	6
Accumulated deficit	(282,423)	(319,756)	(35,168)	(77,703)	(108,848)	(121,056)
Total stockholders' equity (deficit)	$ (163,867)	$ (221,541)	$ 9,962	$ 7,842	$ (22,035)	$ (34,231)

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our financial statements and the related notes appearing at the end of this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. You should read the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are an emerging specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products, based on our proprietary DepoFoam drug delivery technology, for use in hospitals and ambulatory surgery centers. In September 2010, we filed an NDA for EXPAREL with the United States Food and Drug Administration, or FDA, using a 505(b)(2) application. Our clinical data demonstrates that EXPAREL provides analgesia for up to 72 hours post-surgery, compared with seven hours or less for bupivacaine. We are initially seeking approval for postsurgical analgesia by local administration into the surgical wound, or infiltration, a procedure commonly employed using bupivacaine. Under the Prescription Drug User Fee Act, or PDUFA, guidelines, the FDA has a goal of ten months from the date of NDA filing to make a decision regarding the approval of our filing. We are also pursuing several additional indications for EXPAREL and expect to submit a supplemental NDA, or sNDA, for nerve block and epidural administration. We currently intend to develop and commercialize EXPAREL and our other product candidates in the United States while out-licensing commercialization rights for other territories.

We were incorporated in Delaware under the name Blue Acquisition Corp. in December 2006 and changed our name to Pacira, Inc. in June 2007. In October 2010, we changed our name to Pacira Pharmaceuticals, Inc. Pacira Pharmaceuticals, Inc. is the holding company for our California operating subsidiary of the same name, which we refer to as PPI-California. On March 24, 2007, or the Acquisition Date, MPM Capital, Sanderling Ventures, OrbiMed Advisors, HBM BioVentures, the Foundation for Research and their co-investors, through Pacira Pharmaceuticals, Inc., acquired PPI-California, from SkyePharma Holding, Inc., which we refer to as the Acquisition. PPI-California was known as SkyePharma, Inc. prior to the Acquisition.

Our two marketed products, DepoCyt(e) and DepoDur, and our proprietary DepoFoam extended release drug delivery technology were acquired as part of the Acquisition. DepoCyt(e) is a sustained release liposomal formulation of the chemotherapeutic agent cytarabine and is indicated for the intrathecal treatment of lymphomatous meningitis. DepoCyt(e) was granted accelerated approval by the FDA in 1999 and full approval in 2007. DepoDur is an extended release injectable formulation of morphine indicated for epidural administration for the treatment of pain following major surgery. DepoDur was approved by the FDA in 2004.

Since inception, we have incurred significant operating losses. Our net loss was $12.2 million for the six months ended June 30, 2010, including research and development expenses of $9.8 million. Our net loss was $31.1 million for the year ended December 31, 2009, including research and development expenses of $27.0 million. We do not expect our currently marketed products to generate revenue that is sufficient for us to achieve profitability because we expect to continue to incur significant expenses as we advance the development of EXPAREL and our other product candidates, seek FDA approval for our product candidates that successfully complete clinical trials and develop our sales force and marketing capabilities to prepare for their commercial launch. We also expect to incur additional expenses to add operational, financial and management information systems and personnel, including personnel to support our product development efforts and our obligations as a public reporting company. For us to become and remain profitable, we believe that we must succeed in commercializing EXPAREL or other product candidates with significant market potential.

Financial Operations Overview

Revenues

Our revenue derived from DepoCyt(e) and DepoDur, our products manufactured by us and sold by our commercial partners, is comprised of two components: supply revenue and royalties. Supply revenue is derived from a contractual supply price paid to us by our commercial partners. Royalties are recognized as the product is sold by our commercial partners and is typically calculated as a percentage of the net selling price, which is net of discounts, returns, and allowances incurred by our commercial partners. Accordingly, the primary factors that determine our revenues derived from DepoCyt(e) and DepoDur are:

- the level of orders submitted by our commercial partners;
- the level of prescription and institutional demand for our products;
- unit sales prices; and
- the amount of gross-to-net sales adjustments realized by our commercial partners.

We also generate collaborative licensing and development revenue from our collaborations with third parties who seek to use our DepoFoam technology to develop extended release formulations of their products and product candidates.

The following table sets forth a summary of our supply revenue, royalties and collaborative licensing and development revenue for the years ended December 31, 2007, 2008 and 2009, and the six months ended June 30, 2009 and 2010.

	Year Ended December 31,			Six Months Ended June 30,	
	2007	2008	2009	2009	2010
			(in thousands)		
DepoCyt(e) [1]					
Supply revenue	$ 4,675	$ 5,912	$ 5,882	$ 2,289	$ 4,066
Royalties	2,276	3,195	3,708	1,738	1,504
	6,951	9,107	9,590	4,027	5,570
DepoDur [1]					
Supply revenue	769	940	442	170	317
Royalties	112	453	336	179	166
	881	1,393	778	349	483
Total DepoCyt(e) and DepoDur revenue [1]	7,832	10,500	10,368	4,376	6,053
Collaborative licensing and development revenue	509	3,425	4,638	2,586	1,786
Total revenue	$ 8,341	$13,925	$15,006	$6,962	$ 7,839

[1] Total DepoCyt(e) and DepoDur revenue does not include collaborative licensing and development revenue related to DepoCyt(e) and DepoDur.

Cost of Revenues

Cost of revenues consists of the costs associated with producing our products for our commercial partners and providing research and development services to our collaboration partners. In particular, our cost of revenues includes:

- manufacturing overhead and fixed costs associated with running two cGMP manufacturing facilities, including salaries and related costs of personnel involved with our manufacturing activities;
- allocated overhead, personnel conducting research and development, as well as research and development performed by outside contractors or consultants for our collaborative licensing and development activities;

- royalties due to third parties on our revenues;
- packaging, testing, freight and shipping; and
- the cost of active pharmaceutical ingredients.

Research and Development Expenses

Our research and development expenses consist of expenses incurred in developing, testing, manufacturing and seeking regulatory approval of our product candidates, including:

- expenses associated with regulatory submissions, clinical trials and manufacturing, including additional expenses to prepare for the commercial manufacture of EXPAREL, such as the hiring and training of additional personnel;
- payments to third-party contract research organizations, contract laboratories and independent contractors;
- payments made to consultants who perform research and development on our behalf and assist us in the preparation of regulatory filings;
- payments made to third-party investigators who perform research and development on our behalf and clinical sites where such research and development is conducted;
- personnel related expenses, such as salaries, benefits, travel and other related expenses, including stock-based compensation;
- expenses incurred to maintain technology licenses and patents; and
- facility, maintenance, and allocated rent, utilities, and depreciation and amortization, and other related expenses.

Clinical trial expenses for our product candidates are a significant component of our current research and development expenses. Product candidates in later stage clinical development, such as EXPAREL, generally have higher research and development expenses than those in earlier stages of development, primarily due to the increased size and duration of the clinical trials. We coordinate clinical trials through a number of contracted investigational sites and recognize the associated expense based on a number of factors, including actual and estimated subject enrollment and visits, direct pass-through costs and other clinical site fees.

From the Acquisition Date through June 30, 2010, we incurred research and development expenses of $92.1 million, of which $88.2 million is related to the development of EXPAREL. We incurred research and development expenses associated with the development of EXPAREL of $9.3 million for the six months ended June 30, 2010, $26.0 million for the year ended December 31, 2009 and $32.7 million for the year ended December 31, 2008.

We expect to incur additional research and development expenses as we accelerate the development of EXPAREL in additional indications. These expenditures are subject to numerous uncertainties regarding timing and cost to completion. Completion of clinical trials may take several years or more and the length of time generally varies according to the type, complexity, novelty and intended use of a product candidate. We are currently unable to determine our future research and development expenses related to EXPAREL because the timing and outcome of the FDA's review of the NDA for EXPAREL is not currently known and the requirements of any additional clinical trials of EXPAREL for additional indications has yet to be determined. The cost of clinical development may vary significantly due to factors such as the scope, rate of progress, expense and outcome of our clinical trials and other development activities.

We acquired in-process research and development projects as part of the Acquisition. The estimated fair value of in-process research and development projects, which had not reached technological feasibility at the

Acquisition Date and which did not have an alternative future use, were immediately expensed. Accordingly, for the year ended December 31, 2007, we expensed $12.4 million of acquired in-process research and development related to the Acquisition.

Selling, General and Administrative Expenses

Selling, general and administrative expenses consist primarily of salaries, benefits and other related costs, including stock-based compensation, for personnel serving in our executive, finance, accounting, legal, human resource, and sales and marketing functions. Our selling, general and administrative expenses also include facility and related costs not included in research and development expenses and cost of revenues, professional fees for legal, consulting, tax and accounting services, insurance, depreciation and general corporate expenses. We expect that our selling, general and administrative expenses will increase with the continued development and potential commercialization of our product candidates and increased expenses associated with us becoming a public company. Additionally, we plan to build a commercial infrastructure for the anticipated launch of EXPAREL and we currently plan to hire most of our sales force only if EXPAREL is approved by the FDA.

Interest Income (Expense)

Interest income (expense) consists of interest income, interest expense, and royalty interest obligation. Interest income consists of interest earned on our cash and cash equivalents, and amortization of discount on a note receivable from one of our commercial partners. Interest expense consists primarily of cash and non-cash interest costs related to our credit facility, our secured and unsecured notes issued to certain of our investors that we expect will convert into common stock upon completion of this offering, and negotiated rent deferral payments. Royalty interest obligation consists of our royalty payments made in connection with the amended and restated royalty interests assignment agreement, or the Amended and Restated Royalty Interests Assignment Agreement, with Royalty Securitization Trust I, an affiliate of Paul Capital Advisors, LLC, or Paul Capital.

Critical Accounting Policies and Use of Estimates

We have based our management's discussion and analysis of our financial condition and results of operations on our financial statements that have been prepared in accordance with generally accepted accounting principles, or GAAP, in the United States. The preparation of these financial statements requires us to make estimates that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported revenues and expenses during the reporting periods. On an ongoing basis, we evaluate our estimates and judgments, including those related to clinical trial expenses and stock-based compensation. We base our estimates on historical experience and on various other factors we believe to be appropriate under the circumstances. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully discussed in Note 2 to our audited consolidated financial statements included in this prospectus, we believe that the following accounting policies are critical to the process of making significant judgments and estimates in the preparation of our financial statements. We have reviewed these critical accounting policies and estimates with the audit committee of our board of directors.

Revenue Recognition

We recognize revenue in accordance with SEC Staff Accounting Bulletin, or SAB, No. 104, *Revenue Recognition*, and Statement of Financial Accounting Standards, or ASC 605, *Revenue Recognition*.

Supply revenue. We recognize supply revenue from products manufactured and supplied to our commercial partners, when the following four basic revenue recognition criteria under the related accounting guidance are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured. Prior to the

shipment of our manufactured products, we conduct initial product release and stability testing in accordance with cGMP. Our commercial partners can return the products within contracted specified timeframes if the products do not meet the applicable inspection tests. We estimate our return reserves based on our experience with historical return rates.

Royalties. We recognize revenue from royalties based on our commercial partners' net sales of products. Royalties are recognized as earned in accordance with contract terms when they can be reasonably estimated and collectability is reasonably assured. Our commercial partners are obligated to report their net product sales and the resulting royalty due to us within 60 days from the end of each quarter. Based on historical product sales, royalty receipts and other relevant information, we accrue royalty revenue each quarter and subsequently true-up when we receive royalty reports from our commercial partners.

Collaborative licensing and development revenue. We recognize collaborative licensing and development revenue when our contractual services are performed, provided collectability is reasonably assured. We recognize revenues from non-refundable up-front fees received under collaboration agreements ratably over the performance period as determined under the related collaboration agreement (estimated development period in case of development agreements, and contract period or longest patent life in case of supply and distribution agreements). We recognize revenue from milestone payments received under collaboration agreements when earned, provided that the milestone event is substantive, its achievability was not reasonably assured at the inception of the agreement, we have no further performance obligations relating to the event, and collectability is reasonably assured.

Research and Development Expenses

We expense all research and development costs as incurred. We rely on third parties to conduct our preclinical and clinical studies and to provide services, including data management, statistical analysis and electronic compilation for our clinical trials. We track and record information regarding third-party research and development expenses for each study or trial that we conduct and recognize these expenses based on the estimated progress towards completion at the end of each reporting period. Factors we consider in preparing these estimates include the number of subjects enrolled in studies, milestones achieved and other criteria related to the efforts of our vendors. Depending on the timing of payments to vendors and estimated services provided, we may record net prepaid or accrued expenses related to these costs.

We also calculate expenses incurred for the manufacture of our clinical supplies using our estimate of costs and capitalize these expenses on our balance sheet to the extent we hold clinical supply materials on hand to be distributed for use in our clinical trials. We recognize these expenses as the supplies are consumed in the trials.

Stock-Based Compensation

We have adopted the fair value recognition provisions of Financial Accounting Standards Board Accounting Standards Codification, or ASC, 718 "*Accounting for Stock Based Compensation*" (formerly Statement of Financial Accounting Standards No. 123(R), Share-Based Payments), which we refer to as ASC 718, using the modified prospective transition method. The modified prospective transition method applies the provisions of ASC 718 to new awards and to awards modified, repurchased or cancelled after the adoption date. Additionally, compensation cost for the portion of the awards for which the requisite service has not been rendered that are outstanding as of the adoption date is recognized in the Statement of Operations over the remaining service period after the adoption date based on the award's original estimate of fair value. All stock-based awards granted to non-employees are accounted for at their fair value in accordance with ASC 718, and ASC 505, "*Accounting for Equity Instruments that are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*," under which compensation expense is generally recognized over the vesting period of the award. Determining the amount of stock-based compensation to be recorded requires us to develop estimates of fair values of stock options as of the grant date.

For the years ended December 31, 2007, 2008 and 2009, we recognized employee stock-based compensation expense of $80,000, $242,000 and $524,000, respectively. The intrinsic value of all outstanding vested and non-vested stock-based compensation arrangements, based on the initial public offering price of $ per share, is $ million, based on 16,182,011 shares of our common stock issuable upon exercise of stock-based compensation arrangements outstanding at September 30, 2010 at a weighted average exercise price of $0.15 per share.

We account for stock-based compensation by measuring and recognizing compensation expense for all stock-based payments made to employees and directors based on estimated grant date fair values. We use the straight-line method to allocate compensation cost to reporting periods over each optionee's requisite service period, which is generally the vesting period. We estimate the fair value of our stock-based awards to employees and directors using the Black-Scholes option valuation model, or Black-Scholes model. The Black-Scholes model requires the input of subjective assumptions, including the expected stock price volatility, the calculation of expected term and the fair value of the underlying common stock on the date of grant, among other inputs.

The following table summarizes our assumptions used in the Black-Scholes model:

	Year Ended December 31,			Six Months Ended June 30,
	2007	2008	2009	2010
Expected volatility	75.1%	78.2%	82.0%	80.8%
Expected term (in years)	6.25	6.25	6.25	6.25
Risk-free interest rate	3.6% – 4.9%	1.9% – 3.8%	2.1% – 2.7%	2.6%
Expected dividend yield	0%	0%	0%	0%

Expected Volatility. The expected volatility rate used to value stock option grants is based on volatilities of a peer group of similar companies whose share prices are publicly available. The peer group was developed based on companies in the pharmaceutical and biotechnology industry in a similar stage of development.

Expected Term. We elected to utilize the "simplified" method for "plain vanilla" options to estimate the expected term of stock option grants. Under this approach, the weighted average expected life is presumed to be the average of the vesting term and the contractual term of the option.

Risk-Free Interest Rate. The risk-free interest rate assumption was based on zero coupon U.S. Treasury instruments that had terms consistent with the expected term of our stock option grants.

Expected Dividend Yield. We have never declared or paid any cash dividends and do not presently plan to pay cash dividends in the foreseeable future.

The following table summarizes by grant date the number of shares of our common stock subject to options granted in 2007, 2008, 2009 and 2010 through the date of this prospectus and the associated per-share exercise prices.

Grant Date	Number of Options Granted	Per Share Exercise Price	Number of Options Exercised	Number of Options Cancelled	Number of Options Surrendered on March 24, 2009	Number of Options Outstanding
7/20/2007	3,887,250	$ 0.15	(558,100)[1]	(1,917,415)	(1,253,958)	157,777
10/2/2007	109,000	0.15	(67,291)	(37,509)	—	4,200
12/6/2007	2,030,250	0.15	(500,510)	(20,490)	(1,500,000)	9,250
2/1/2008	482,870	0.15	—	(301,150)	(180,000)	1,720
4/17/2008	2,422,030	0.15	(52,937)	(1,074,154)	(1,050,000)	244,939
6/19/2008	615,000	0.20	(4,375)	(470,500)	(110,000)	30,125
6/27/2008	165,000	0.20	—	(30,000)	(135,000)	—
6/30/2008	10,000	0.25	—	(5,000)	—	5,000
7/14/2008	800,000	0.25	—	—	(800,000)	—
8/15/2008	272,000	0.25	—	(202,000)	(55,000)	15,000
9/30/2008	65,000	0.25	—	(10,000)	(55,000)	—
12/9/2008	53,000	0.25	—	(15,000)	—	38,000
4/16/2009	4,000	0.25	—	—	—	4,000
9/23/2009	4,000	0.25	—	—	—	4,000
3/3/2010	36,000	0.25	—	—	—	36,000
5/20/2010	55,000	0.25	—	—	—	55,000
9/2/2010	15,577,000	$ 0.15	—	—	—	15,577,000
	26,587,400		(1,183,213)[1]	(4,083,218)	(5,138,958)	16,182,011

(1) Includes 11,458 unvested shares that we repurchased, for a nominal amount, from a stockholder pursuant to the terms of the 2007 Plan. These shares are still available for issuance pursuant to the 2007 Plan.

The exercise price of options to purchase our common stock granted to our employees, directors and consultants was the fair value of our common stock on the date of grant. The fair value of our common stock was determined by our board of directors. Prior to this offering, there has been no public market for our common stock. Our board of directors determined the fair value of our common stock based on several factors, including:

- the reports of an independent valuation firm with respect to its estimates of the fair values of our common stock;
- the substantial amount of claims of our creditors that are required to be satisfied prior to any payments or distributions to holders of our Series A convertible preferred stock and common stock;
- the aggregate principal amount of secured and unsecured indebtedness that is required to be discharged prior to any payments or distributions to holders of our of our Series A convertible preferred stock or common stock;
- the rights, preferences and privileges of our Series A convertible preferred stock relative to our common stock, including a substantial liquidation preference;
- the lack of marketability of our common stock;
- the price at which our Series A convertible preferred stock was sold;
- available data resulting from our clinical studies and development to date;
- our performance and stage of development;
- the likelihood of achieving a liquidity event for the shares of our common stock underlying these stock options, such as an initial public offering or sale of our company, given prevailing market conditions;
- the trading value of common stock of public companies comparable to us; and
- the sale prices of comparable acquisition transactions of public companies comparable to ours.

We obtained the reports of an independent valuation firm with respect to estimates of the fair values of our common stock as follows:

- report dated June 27, 2007 for a valuation of our common stock as of April 30, 2007, or the April 2007 Report;
- report dated August 22, 2008 for a valuation of our common stock as of June 30, 2008, or the June 2008 Report; and
- report dated October 1, 2010 for a valuation of our common stock as of August 31, 2010, or the August 2010 Report.

In these reports, the valuation firm used industry standard valuation methodologies to value our common stock, as described below. In estimating the fair value of our common stock, the independent valuation firm used a probability weighting of the market approach and the income approach to first arrive at an enterprise value.

- The income approach is an estimate of the present value of the future monetary benefits expected to flow to the owners of a business. It requires a projection of the cash flows that the business is expected to generate over a forecast period and an estimate of the present value of cash flows beyond that period, which is referred to as residual value. These cash flows are converted to present value by means of discounting, using a rate of return that accounts for the time value of money and the appropriate degree of risks inherent in the business.
- The market approach encompasses (i) the comparable company approach and/or (ii) the recent transaction approach.

  (i) The comparable company approach relies on an analysis of publicly traded companies similar in industry and/or business model to a company. This approach uses these comparable companies to develop relevant market multiples and ratios such as revenues, earnings before interest and taxes, or EBIT, earnings before interest, taxes, depreciation and amortization, or EBITDA, net income and/or tangible book value. These multiples and values are then applied to a company's results.

  (ii) The recent transaction approach uses actual prices paid in merger and acquisition transactions for companies similar to a company. Exit multiples of total purchase prices paid to revenues, EBIT, EBITDA, net income and/or book value may be developed for each comparable transaction, if the data is available. These multiples are then applied to a company's latest twelve months and projected performance.

Since no two companies are perfectly comparable, premiums or discounts may be applied to the subject company if its position in its industry is significantly different from the position of the comparable companies, or if its intangible attributes are significantly different.

After calculation of a company's enterprise value using these approaches, adjusting for cash and debt, the value of a share of common stock is then discounted for lack of marketability, or the inability to readily sell shares, which increases the owner's exposure to changing market conditions and increases the risk of ownership.

After arriving at an enterprise value, the independent valuation firm then allocated the enterprise value, adjusting for cash and debt, to our different classes of equity using:

- the probability-weighted expected return method, or PWERM, whereby the value of our common stock was estimated based on an analysis of future values for the equity assuming various future outcomes including liquidity events; and
- the option pricing method, or OPM, whereby the rights of preferred and common stockholders are treated as equivalent to that of call options on any value of the enterprise above certain break points of value based upon the preferred stockholders' liquidation preferences, rights to participation and conversion, and thus, the value of the common stock can be determined by estimating the value of its portion of each of these call option rights.

For the PWERM method, the valuations considered the following scenarios for achieving shareholder liquidity:

- an initial public offering of our common stock, or an IPO;
- our sale at an equity value greater than the aggregate liquidation preference of the preferred stock;
- our sale or liquidation at an equity value equal to or less than the aggregate liquidation reference of the preferred stock; and
- our continued, long term operation as a private company.

In the IPO scenario, the independent valuation firm applied the comparable transactions method under the market approach as provided in the AICPA Technical Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation* , or the AICPA Practice Aid. The selection of comparable companies included companies deemed comparable because of their focus on specialty pharmaceuticals, use of proprietary drug delivery technologies, stage of clinical trials, and size.

In the sale above liquidation preference scenario, the independent valuation firm applied the guideline transactions method under the market approach as provided in the AICPA Practice Aid. The selection of transactions took into account the timing of the transactions and the characteristics of the acquired companies. The independent valuation firm selected target companies which were deemed comparable because of their focus on specialty pharmaceuticals, use of proprietary drug delivery technologies, stage of clinical trials, and size. In the liquidation scenario, the independent valuation firm assumed a sale or liquidation of the company at an equity value equal to the aggregate liquidation preference of our preferred stock. In the private company scenario, the independent valuation firm assumed we continued over the long term to operate as a private company. Future values for each scenario are converted to present value by applying a discount rate.

Options Granted from July 20, 2007 through April 17, 2008

Our board of directors valued our common stock to be $0.15 per share for options granted from July 20, 2007 through April 17, 2008. In determining the value of our common stock, our board of directors based its valuation, in part, on the April 2007 Report.

In determining the value of our common stock, the independent valuation firm used the PWERM method as described above, employing four scenarios: an IPO, our sale at an equity value greater than the aggregate liquidation preference of our Series A convertible preferred stock, our sale or liquidation at an equity value equal to or less than the aggregate liquidation preference of the preferred stock, and our continued, long term operation as a private company. Future values for each scenario are converted to present value by applying a discount rate of 41.0%, arrived at by using a size-adjusted capital asset pricing model, or CAPM. The independent valuation firm determined that using the PWERM method, the value of our common stock was $0.15 per share.

In addition, using the OPM method, the independent valuation firm estimated our enterprise value employing a probability weighting of (i) the income approach, using discounted cash flows, a terminal value based on comparable publicly traded company revenue multiples and a risk-adjusted discount rate of 41.0%, (ii) the income approach, using discounted cash flows, a terminal value based on revenue multiples on comparable merger and acquisition transactions and a risk-adjusted discount rate of 41.0%, (iii) the market approach, using forward revenue multiples based on comparable publicly traded company revenue multiples, (iv) the market approach, using forward revenue multiples based on comparable merger and acquisition transactions and (v) the market approach, using the actual price paid in the Acquisition which occurred in March 2007. After determining our estimated enterprise value, it was then allocated among the various classes of our securities, including our Series A convertible preferred stock, common stock and options to purchase common stock using the Black-Scholes model. This allocation yielded an estimated value per share of our common stock of $0.21, which was reduced by a discount for lack of marketability of 30.0%, resulting in an estimated value per share of $0.15.

During this period, we granted options to purchase an aggregate of 8,931,400 shares of our common stock. As of September 30, 2010, options to purchase 417,886 of these shares of our common stock remain outstanding and options to purchase 7,334,676 of these shares have been cancelled or surrendered. A portion of these options was cancelled as a result of employees and consultants terminating their service to us and not exercising the vested portion of their options prior to the expiration date. In addition, in March 2009, we adopted our company sale bonus plan which was amended and restated in March 2010, which is further described in "Executive Compensation—Company Sale Bonus Plan." As a condition to becoming a participant under the Company Sale Bonus Plan, most of the participants under the plan, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled in March 2009.

Options Granted from June 19, 2008 through June 27, 2008

Our board of directors valued our common stock to be $0.20 per share for options granted from June 19, 2008 through June 27, 2008. This valuation was partly based on the valuation set forth in the April 2007 Report, the rights, preferences and privileges of our Series A convertible preferred stock relative to our common stock, the lack of marketability of our common stock and the price at which our Series A convertible preferred stock was sold.

During this period, options to purchase an aggregate of 780,000 shares of our common stock were granted. As of September 30, 2010, options to purchase only 30,125 of these shares of our common stock remain outstanding and options to purchase 745,500 of these shares of our common stock have been cancelled or surrendered. These options were cancelled as a result of employees and consultants terminating their service to us and not exercising the vested portion of their options prior to the expiration date and the forfeiture of such options pursuant to the Company Sale Bonus Plan.

Options Granted from June 30, 2008 through December 9, 2008

Our board of directors valued our common stock to be $0.25 per share for options granted from July 30, 2008 through December 9, 2008. Our board of directors based its valuation on the June 2008 Report. In determining the value of our common stock, the independent valuation firm used the PWERM method as described above, employing six scenarios: an IPO in 2009, an IPO in 2010, an IPO in 2011, our sale at an equity value greater than the aggregate liquidation preference of our Series A convertible preferred stock, our liquidation, and continued, long term operation as a private company. Future values for each scenario are converted to present value by applying a discount rate of 30.0%, arrived at by using a size-adjusted CAPM. The independent valuation firm determined that using the PWERM method, the value of our common stock was $0.25 per share.

This valuation reflects the following positive factor:

- we successfully enrolled our Phase 3 clinical trials for EXPAREL.

The positive factor set forth above was offset by:

- a sharp deterioration in financial markets with accompanying decreases in market capitalization of companies comparable to ours;
- increased risk of running out of cash as the proceeds from the Series A convertible preferred stock financing were becoming exhausted; and
- increased difficulty in raising equity financing with accompanying financing uncertainty.

The value of our common stock from April 2007 to June 2008 increased from $0.15 per share to $0.25 per share. The change in value is primarily the result of an increase in our estimated enterprise value, offset by an increase in assigned probability of our sale at an equity value equal to or less than the aggregate liquidation preference of our Series A convertible preferred stock.

The change reflects the following positive factors:

- license of U.S. and EU marketing rights to DepoDur;
- launch of DepoDur in Australia;
- implementation of an expanded Phase 3 clinical development plan for EXPAREL; and
- execution of a license and development agreement with our development partner, Amylin, resulting in an up-front milestone payment of $8 million and the potential for significant future milestone and royalty payments.

The positive factors set forth above were partially offset by:

- a significant delay in the forecasted generation of material license and product revenues compared to our April 2007 forecast; and
- increased risk of running out of cash as the proceeds from the Series A convertible preferred stock financing were partially exhausted.

While no single factor listed above was specifically quantified or weighted greater than another in estimating our enterprise value, each was taken into account in calculating the discount rate for the discounted cash flow analysis, estimating the time to liquidity and the expense that would be required to achieve liquidity.

During this period, we granted options to purchase an aggregate of 1,200,000 shares of our common stock. As of September 30, 2010, options to purchase 58,000 of these shares of our common stock remain outstanding and options to purchase 1,142,000 of these shares have been cancelled or surrendered. A portion of these options was cancelled as a result of employees and consultants terminating their service to us and not exercising the vested portion of their options prior to the expiration date. In addition, in March 2009, we adopted our company sale bonus plan which was amended and restated in March 2010, which is further described in "Executive Compensation—Stock Option and Other Compensation Plans—Company Sale Bonus Plan." As a condition to becoming a participant under the company sale bonus plan, most of the participants under the plan, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled in March 2009.

Options Granted from April 16, 2009 through May 20, 2010

Our board of directors established an option exercise price of $0.25 per share for options granted from April 16, 2009 through May 20, 2010. During this period, the valuation was partly based on the valuation set forth in the June 2008 Report, the substantial amount of new secured and unsecured indebtedness that is required to be discharged prior to any payments or distributions to holders of our Series A convertible preferred stock and common stock, the rights, preferences and privileges of our Series A convertible preferred stock relative to our common stock, including an aggregate $85 million liquidation preference, the lack of marketability of our common stock and the price at which our Series A convertible preferred stock was sold.

During this period, our board of directors believed that the value of our common stock was at or below the value of $0.25 per share as set forth in the June 2008 Report, because of the following negative factors:

- two of our three Phase 3 clinical trials of EXPAREL did not meet their primary endpoint of superiority over the comparator arm and we discontinued a third trial;
- the proceeds from the Series A convertible preferred stock financing were exhausted; and
- the incurrence of a substantial amount of new secured and unsecured indebtedness during this period that is required to be discharged prior to any payments or distributions to holders of our of our Series A convertible preferred stock and common stock.

These negative factors were partially offset by the fact that our two Phase 3 placebo controlled trials of EXPAREL met their primary endpoint in the fourth quarter of 2009.

While no single factor listed above was specifically quantified or weighted greater than another in estimating the company's enterprise value, each was taken into account in estimating the time to liquidity and the expense that would be required to achieve liquidity.

During this period, we granted options to purchase an aggregate of 99,000 shares of our common stock. As of September 30, 2010, all of these options remained outstanding.

Options Granted on September 2, 2010

Our board of directors valued our common stock to be $0.15 per share for options granted on September 2, 2010, based on the August 2010 Report. In the August 2010 Report, the independent valuation firm used the PWERM method employing four scenarios: an IPO early in 2011, an IPO in mid-2011, a merger or sale of the company or an out-license of our lead product candidate that results in an equity value greater than the aggregate liquidation preference of our Series A convertible preferred stock, and a sale of the company at an equity value equal to or less than the aggregate liquidation preference of our Series A convertible preferred stock. Future values for each scenario are converted to present value by applying a discount rate of 30.0%, based on returns to venture capitalist investors as set forth in the AICPA Practice Aid. The independent valuation firm determined that using the PWERM method, the value of our common stock at the valuation date was $0.15 per share.

The change in value for our common stock to $0.15 per share on September 2, 2010, as compared to the $0.25 per share value as of June 2008, is primarily the result of a materially similar estimated enterprise value in September 2010 compared to the enterprise value in June 2008 and the incurrence of secured and unsecured indebtedness in the aggregate principal amount of $51.25 million.

On , 2011, we and the underwriters determined a preliminary range for the initial public offering price. The midpoint of the range was $ per share as compared to $0.15 per share, which was based on the August 2010 Report. We note that, as is typical in initial public offerings, the preliminary range was not derived using a formal determination of fair value, but was determined based upon discussions between us and the underwriters. Among the factors considered in setting the preliminary range were prevailing market conditions and estimates of our business potential. In addition to this difference in purpose and methodology, we believe that the difference in value reflected between the midpoint of the preliminary range and management's determination of the value of our common stock on September 2, 2010 was primarily because history has shown that it is reasonable to expect that the completion of an initial public offering will increase the value of stock as a result of the significant increase in the liquidity and ability to trade/sell such securities. However, it is not possible to measure such increase in value with precision or certainty.

Based on the $ midpoint of the estimated price range shown on the cover of this prospectus, the intrinsic value of the options granted on September 2, 2010, the last date we granted stock options, was approximately $. Also based on the $ midpoint of the estimated price range shown on the cover of this prospectus, the intrinsic value of outstanding options as of September 30, 2010 was $ million, of which $ million related to vested options and $ million related to unvested options.

Internal Control over Financial Reporting

Effective internal control over financial reporting is necessary for us to provide reliable annual and quarterly financial reports and to prevent fraud. If we cannot provide reliable financial reports or prevent fraud, our operating results and financial condition could be materially misstated and our reputation could be significantly harmed. As a private company, we were not subject to the same standards as a public company. As a public company, we will be required to file annual and quarterly reports containing our consolidated financial statements and will be subject to the requirements and standards set by the Securities and Exchange Commission, or SEC.

Results of Operations

Comparison of Six Months Ended June 30, 2010 and 2009

	Six Months Ended June 30,		Increase/	% Increase/
	2009	2010	(Decrease)	(Decrease)
	(dollars in thousands)			
Revenues	$6,962	$ 7,839	$ 877	13%
Cost of revenues	6,104	6,595	491	8%
Research and development	13,147	9,775	(3,372)	(26)%
Selling, general and administrative	2,329	1,712	(617)	(27)%
Other income (expense)	(29)	68	97	N.M.
Interest income (expense)	$(1,497)	$ (2,033)	$ (536)	(36)%

Revenues. Revenues increased by $0.9 million, or 13%, to $7.8 million in the six months ended June 30, 2010 as compared to $7.0 million in the six months ended June 30, 2009. The increase reflects an increase of supply revenue of $1.9 million, partially offset by a decrease of royalties of $0.2 million and of collaborative licensing and development revenue of $0.8 million. Supply revenue increased due to a significant increase in DepoCyt(e) product orders from our European commercial partner, Mundipharma, and from our new U.S. commercial partner, Sigma-Tau, subsequent to its acquisition of the product as part of a larger product portfolio acquisition in January 2010. Royalties declined in part due to lower DepoCyte market sales in Europe in the six months ended June 30, 2010 as compared to the same period in 2009. The decrease in collaborative licensing and development revenue reflected a reduction in contract development activities for Amylin, for the six months ended June 30, 2010, as well as a one-time purchase of equipment for which we were reimbursed by Amylin in the six months ended June 30, 2009.

Cost of Revenues. Cost of revenues increased by $0.5 million, or 8%, to $6.6 million in the six months ended June 30, 2010 as compared to $6.1 million in the six months ended June 30, 2009. The increase reflects a $1.0 million increase in cost of supply revenue and royalties, offset by a $0.5 million decrease in cost of collaborative licensing and development revenue as our personnel were re-assigned to internal research and development projects subsequent to the reduction in contract development activities for Amylin.

Research and Development Expenses. Research and development expenses decreased by $3.4 million, or 26%, to $9.8 million in the six months ended June 30, 2010 as compared to $13.1 million in the six months ended June 30, 2009. The decrease was primarily due to a decrease in clinical study expenses in the six months ended June 30, 2010 as compared to the comparable period in 2009, during which time the pivotal placebo controlled Phase 3 studies were completed.

In the six months ended June 30, 2010 and 2009, research and development expenses attributable to EXPAREL were $9.3 million, or 95%, and $12.7 million, or 97%, respectively of total research and development expenses. The remaining research and development expenses related to our other product candidates.

Selling, General and Administrative Expenses. Selling, general and administrative expenses decreased by $0.6 million, or 27%, to $1.7 million in the six months ended June 30, 2010 as compared to $2.3 million in the six months ended June 30, 2009. Selling expenses decreased by $0.4 million, or 67%, to $0.2 million in the six months ended June 30, 2010 as compared to $0.6 million in the six months ended June 30, 2009. The decrease in selling expenses reflects the termination of our commercial personnel in February 2009. General and administrative expenses decreased by $0.2 million, or 12%, to $1.5 million in the six months ended June 30, 2010 as compared to $1.7 million in the six months ended June 30, 2009.

Other Income (Expense). Other income increased by $97,000 to $68,000 in the six months ended June 30, 2010 as compared to other expense of $29,000 in the six months ended June 30, 2009. The increase was primarily due to gains realized on settlements with trade creditors.

Interest Income (Expense). Interest expense increased by $0.5 million, or 36%, to $2.0 million in the six months ended June 30, 2010 as compared to $1.5 million in the six months ended June 30, 2009. Interest expense increased by $0.9 million in the six months ended June 30, 2010 as compared to the six months ended June 30, 2009, driven by debt financing activities in 2009 and 2010, and was partially offset by a $0.4 million credit, resulting from the favorable impact of quarterly revaluation of our liability under the Amended and Restated Royalty Interests Assignment Agreement.

Comparison of Years Ended December 31, 2009 and 2008

	Year Ended December 31,		Increase/	% Increase/
	2008	2009	(Decrease)	(Decrease)
	(dollars in thousands)			
Revenues	$13,925	$15,006	$ 1,081	8%
Cost of revenues	17,463	12,301	(5,162)	(30)%
Research and development	34,067	27,042	(7,025)	(21)%
Selling, general and administrative	7,758	4,211	(3,547)	(46)%
Other income (expense)	(224)	367	591	N.M.
Interest income (expense)	$ 3,052	$ (2,964)	$ (6,016)	N.M.

Revenues. Revenues increased by $1.1 million, or 8%, to $15.0 million in the year ended December 31, 2009 as compared to $13.9 million in the year ended December 31, 2008. The increase was primarily due to increases of collaborative licensing and development revenue of $1.2 million and royalties of $0.4 million, offset by a decrease in supply revenue of $0.5 million. The increase in collaborative licensing and development revenue reflected in part a $1.0 million increase in contract development activities for Amylin in 2009, and an increase in 2009 milestone revenue resulting from a milestone payment from our U.S. DepoDur commercial partner, EKR, paid at the end of 2008. The increase in royalties in 2009 reflected an increase in end user sales of DepoCyt(e) in 2009, offset by a decline in DepoDur royalties. The decrease in supply revenue in 2009 was primarily due to EKR gradually selling down excess inventory accumulated in 2008.

Cost of Revenues. Cost of revenues decreased by $5.2 million, or 30%, to $12.3 million in the year ended December 31, 2009 as compared to $17.5 million in the year ended December 31, 2008. The decrease was primarily due to reduction in cost of supply revenue, driven by cost control measures initiated in December 2008 and April 2009, including a reduction in force of manufacturing and support personnel, decreased reliance on outsourced providers to support our manufacturing activities, and elimination of non-essential activities.

Research and Development Expenses. Research and development expenses decreased by $7.0 million, or 21%, to $27.0 million in the year ended December 31, 2009 from $34.1 million in the year ended December 31, 2008. This decrease resulted primarily from a $6.1 million decrease in clinical trials costs, to $8.7 million in 2009 from $14.8 million in 2008. In 2009, we completed our pivotal Phase 3 placebo controlled studies, as compared to in 2008 when we incurred most of the expenses for three Phase 3 comparator studies as well as three Phase 2 studies.

In the years ended December 31, 2009 and 2008, research and development expenses attributable to EXPAREL were $26.0 million, or 96%, and $32.7 million, or 96% of total research and development expenses, respectively. The remaining research and development expenses related to our other product candidate initiatives.

Selling, General and Administrative Expenses. Selling, general and administrative expenses decreased by $3.5 million, or 46%, to $4.2 million in the year ended December 31, 2009 from $7.8 million in the year ended December 31, 2008. Selling expenses were $1.6 million lower in 2009 as compared to 2008, as we curtailed our pre-commercial efforts in early 2009, resulting in $1.0 million decrease in outside services and $0.3 million decrease in compensation expenses. General and administrative expenses decreased by $1.9 million in the year ended December 31, 2009 as compared to 2008, primarily due to a $0.8 million decrease in salary expenses and a $0.7 million decrease in severance and recruiting expenses.

Other Income (Expense). Other income increased by $0.6 million, to $0.4 million in the year ended December 31, 2009 as compared to $0.2 million in other expense in the year ended December 31, 2008. The increase was primarily due to a gain realized on settlement with trade creditors in 2009.

Interest Income (Expense). Interest expense increased by $6.0 million in the year ended December 31, 2009, to $3.0 million, as compared to interest income of $3.0 million in the year ended December 31, 2008. The increase was primarily due to the impact of the quarterly revaluation of our liability under the Amended and Restated Royalty Interests Assignment Agreement, resulting in $4.1 million increase in royalty interest obligations, and due to a $1.7 million increase of interest expense accrual as a result of our debt financing activities in 2009.

Comparison of Years Ended December 31, 2008 and 2007

The combined statement of operations for the year ended December 31, 2007 represents the statement of operations of the Successor for the year ended December 31, 2007 (for which there was no activity prior to the Acquisition Date).

	Year Ended December 31,		Increase/ (Decrease)	% Increase/ (Decrease)
	2007	2008		
	(dollars in thousands)			
Revenues	$ 8,341	$13,925	$ 5,584	67%
Cost of revenues	9,492	17,463	7,971	84%
Research and development	21,247	34,067	12,820	60%
Selling, general and administrative	3,588	7,758	4,170	116%
In-process research and development	12,400	—	(12,400)	N.M.
Other income (expense)	16	(224)	(240)	N.M.
Interest income (expense)	$ 3,202	$ 3,052	$ (150)	(5)%

Revenues. Revenues increased by $5.6 million, or 67%, to $13.9 million in the year ended December 31, 2008 as compared to $8.3 million in the year ended December 31, 2007. The increase was due to increases of collaborative licensing and development revenue of $2.9 million, of supply revenue of $1.4 million and of royalties of $1.3 million. The increase in collaborative licensing and development revenue reflected in part $1.4 million of contract development activities for Amylin after we entered into an agreement in April 2008, and an increase in 2008 milestone revenue resulting from an up-front milestone payment from Amylin. The increase in supply revenue and royalties in the year ended December 31, 2008 reflected higher end user sales for our commercial partners, as well as 2008 reflecting a full year of operations in comparison to 2007, which reflects operations from the Acquisition Date.

Cost of Revenues. Cost of revenues increased by $8.0 million, or 84%, to $17.5 million in the year ended December 31, 2008 as compared to $9.5 million in the year ended December 31, 2007. The increase was primarily due an increase in cost of supply revenue of $5.7 million and an increase in cost of collaborative licensing and development revenue of $2.1 million. The increase in cost of supply revenue reflects higher manufacturing and support personnel, higher cost of manufacturing supplies and increased outsourced services in support of the manufacturing activities as well as 2008 reflecting a full year of operations in comparison to 2007 which reflects operations from the Acquisition Date. The increase in cost of collaborative licensing and development revenue reflects the additional personnel and overhead allocated to servicing our collaborative licensing partners as well as 2008 reflecting a full year of operations in comparison to 2007, which reflects operations from the Acquisition Date.

Research and Development Expenses. Research and development expenses increased by $12.8 million, or 60%, to $34.0 million in the year ended December 31, 2008 as compared to $21.2 million in the year ended December 31, 2007. This increase resulted primarily from a $8.2 million increase in clinical trial costs, to

$14.8 million in 2008 from $6.6 million in 2007. In 2008, we incurred most of the expenses for three Phase 3 clinical trials and three Phase 2 clinical trials, as compared to 2007 when we incurred most of the expenses for three Phase 2 clinical trials and one Phase 1 clinical trial, as well as 2008 reflecting a full year of operations in comparison to 2007, which reflects operations from the Acquisition Date.

In the years ended December 31, 2008 and 2007, research and development expenses attributable to EXPAREL were $32.7 million, or 96%, and $20.2 million, or 95% of total research and development expenses, respectively. The remaining research and development expenses are related to our other product candidate initiatives.

Selling, General and Administrative Expense. Selling, general and administrative expenses increased by $4.2 million, or 116%, to $7.8 million in the year ended December 31, 2008 from $3.6 million in the year ended December 31, 2007. Selling expenses related to pre-commercial efforts were $2.4 million in 2008, and we did not incur any selling expenses in 2007. General and administrative expenses increased by $1.8 million in 2008 as compared to 2007, reflecting a full year of operations in comparison to 2007, which reflects operations from the Acquisition Date.

In-Process Research and Development Expenses. There were no in-process research and development expenses in the year ended December 31, 2008, as compared to $12.4 million in the year ended December 31, 2007. We acquired and expensed $12.4 million of in-process research and development projects as part of the Acquisition.

Other Income (Expense). Other expense increased by $0.2 million, to $0.2 million in the year ended December 31, 2008 as compared to $16,000 in other income in the year ended December 31, 2007. The increase was primarily due to unfavorable foreign currency exchange rate movement between the euro and dollar for DepoCyte sales in Europe and between the pound sterling and dollar for value added tax refunds in Europe.

Interest Income (Expense). Interest income decreased $0.2 million, to $3.1 million in the year ended December 31, 2008 as compared to interest income of $3.2 million in the year ended December 31, 2007. The decrease was primarily due to the impact of the quarterly revaluation of our liability under the Amended and Restated Royalty Interests Assignment Agreement, offset by $0.3 million lower interest income, as well as 2008 reflecting a full year of operations in comparison to 2007, which reflects operations from the Acquisition Date.

Liquidity and Capital Resources

Since our inception in 2007, we have devoted most of our cash resources to research and development and general and administrative activities primarily related to the development of EXPAREL. We have financed our operations primarily with the proceeds of the sale of convertible preferred stock, secured and unsecured notes and borrowings under debt facilities, supply revenue, royalties and collaborative licensing and development revenue. To date, we have generated limited supply revenue and royalties, and we do not anticipate generating any revenues from the sale of EXPAREL, if approved, until at least the fourth quarter of 2011. We have incurred losses and generated negative cash flows from operations since inception. As of June 30, 2010, we had an accumulated deficit of $121.1 million, cash and cash equivalents of $12.4 million and working capital of $4.8 million.

The following table summarizes our cash flows from operating, investing and financing activities for the years ended December 31, 2007, 2008 and 2009 and the six months ended June 30, 2009 and June 30, 2010:

	Year Ended December 31,			Six Months Ended June 30,	
	2007	2008	2009	2009	2010
			(in thousands)		
Consolidated Statement of Cash Flows Data:					
Net cash provided by (used in):					
Operating activities	$(13,435)	$(29,189)	$(20,838)	$(11,737)	$(12,127)
Investing activities	(24,375)	(5,838)	(5,509)	(4,660)	(1,923)
Financing activities	45,050	40,173	21,038	10,610	19,326
Net increase (decrease) in cash and cash equivalents	$ 7,240	$ 5,146	$ (5,309)	$ (5,787)	$ 5,276

Operating Activities

For the six months ended June 30, 2010 and 2009, our net cash used in operating activities was $12.1 million and $11.7 million, respectively. The increase in net cash used in operating activities in the six months ended June 30, 2010 resulted from a decrease in accounts payable, and an increase in accounts receivable related to DepoCyt(e) supply revenue on product shipped to our commercial partners and collaborative licensing and development revenue, offset by a decrease in research and development expenses.

For the years ended December 31, 2009, 2008 and 2007, our net cash used in operating activities was $20.8 million, $29.2 million and $13.4 million, respectively. The decrease in net cash used in operating activities in 2009 resulted from lower research and development and selling expenses, offset by a decrease in accounts payable of $4.4 million and a $3.8 million increase in the deferred revenue balance. The increase in net cash used in operating activities in 2008 resulted from increased spending on research and development expenses and an increase in accounts receivable of $1.6 million, offset by an increase in accounts payable of $4.8 million, and an increase in deferred revenue of $11.3 million.

Investing Activities

For the six months ended June 30, 2010 and 2009, our net cash used in investing activities was $1.9 million and $4.7 million, respectively. The net cash used in investing activities in the six months ended June 30, 2010 and 2009 was primarily for the purchases of fixed assets of $1.9 million and $4.7 million, respectively. For the years ended December 31, 2009, 2008 and 2007, our net cash used in investing activities was $5.5 million, $5.8 million and $24.4 million, respectively. The net cash used in investing activities in 2009 and 2008 was primarily for the purchases of fixed assets of $5.5 million and $5.8 million, respectively. The cash used in investing activities in 2007 was primarily to fund the $19.6 million purchase price of the Acquisition, and for the purchases of fixed assets of $2.1 million.

Financing Activities

For the six months ended June 30, 2010 and 2009, our net cash provided by financing activities was $19.3 million and $10.6 million, respectively. The cash provided by financing activities in the six months ended June 30, 2010 and 2009 was primarily the result of increased borrowings and the issuance and sale of notes payable, for total net proceeds of $19.3 million and $10.6 million, respectively.

For the years ended December 31, 2009, 2008 and 2007, our net cash provided by financing activities was $21.0 million, $40.2 million and $45.1 million, respectively. The net cash provided by financing activities in 2009 was primarily due to the sale and issuance of notes payable, for total net proceeds of $21.0 million. The

cash provided by financing activities in 2008 was due primarily to the sale and issuance of our Series A convertible preferred stock, for total net proceeds of $40.0 million. The cash provided by financing activities in 2007 was due primarily to the sale and issuance of shares of our Series A convertible preferred stock for total net proceeds of $45.0 million.

Equity Financings

From inception through June 30, 2010, we have received net proceeds of $85 million from the sale of our Series A convertible preferred stock. The various issuances of our Series A convertible preferred stock are described in more detail under "Related Person Transactions—Preferred Stock Issuances."

Debt Facilities

As of September 30, 2010, we had $51.25 million in aggregate principal amount of debt outstanding, including $11.25 million under the GECC Credit Facility, $3.75 million pursuant to secured notes we issued to one of our investors and $36.25 million under various secured and convertible notes that we issued to certain of our investors in 2009 and 2010. We expect that the convertible and secured notes will convert into 35,112,715 shares of our common stock upon completion of this offering. The table below shows the principal amount of our indebtedness and the number of shares of our common stock that we expect our indebtedness will convert into.

Debt Issue	Principal amount	Conversion Shares
GECC Credit Facility	$11.25 million	—
2009 Convertible Notes	10.63 million	9,374,446
2009 Secured Notes	10.63 million	9,979,369
2010 Secured Notes	15.00 million	12,439,302
HBM Secured Notes	3.75 million	3,319,598

GECC Credit Facility. On April 30, 2010, we entered into an $11.25 million credit facility with General Electric Capital Corporation, as both agent and the sole lender, or the GECC Credit Facility. We borrowed under the GECC Credit Facility an aggregate principal amount of $5.63 million at the closing, $2.81 million on July 1, 2010 and the remaining $2.81 million on September 2, 2010. As of September 30, 2010 the entire term loan of $11.25 million was outstanding under the GECC Credit Facility. Each of the term loans under the loan and security agreement governing the GECC Credit Facility, or the GECC Loan and Security Agreement, carries a fixed interest rate of approximately 10% that is payable monthly. If there is an event of default under the GECC Credit Facility, we will be obligated to pay interest at a higher default rate. In addition, if amounts payable under the GECC Credit Facility are not paid within three days after they are due, the agent could impose a late fee on the unpaid amount.

The GECC Credit Facility requires no payment of principal for a year following the funding date of the applicable term loan, and then requires equal principal payments over 24 months until the maturity date of three years from the funding date of the applicable term loan. Amounts paid may not be re-borrowed. We can, at any time, prepay any term loan in full. In connection with any prepayments of term loans under the GECC Credit Facility, we are required to pay, in addition to all principal and accrued and unpaid interest on such term loan, a final payment fee equal to (i) 0.45% of the original principal amount of such term loan if the prepayment is made or required before the one year anniversary of the funding date of such term loan, (ii) 2.25% of the original principal amount of such term loan if the prepayment is made or required on or after the one year anniversary of the funding date of such term loan but before the two year anniversary the funding date of such term loan, and (iii) 3.50% of the original principal amount of such term loan if the prepayment is made or required on or after the two year anniversary of the funding date of such term loan.

The GECC Credit Facility is guaranteed by us and is secured by a first priority lien on all of our assets other than the assets that secure our obligations under Amended and Restated Royalty Interests Assignment Agreement

(described below). In addition, the GECC Credit Facility is guaranteed by certain of our investors (other than HBM) on a several and not joint basis which guarantee is limited to each investor's pro rata portion of the outstanding principal and accrued and unpaid interest under the GECC Credit Facility, but in no event to exceed $11.25 million in the aggregate. The obligations of the investors under the guarantee is not triggered until the earlier to occur of (i) 30 days after written notice from the agent that our obligations under the GECC Credit Facility have been accelerated based on certain events of default and other events as set forth below, and (ii) the occurrence of a bankruptcy or insolvency event with respect to the borrower under the GECC Credit Facility, us or any of the investor guarantors. The guarantee by our investors of the GECC Credit Facility also includes covenants that require each of our investors to maintain at all times while any term loan is outstanding unfunded commitments from its fund investors in an amount equal to at least one and one-half times the maximum amount which our investor may be obligated for under the investor guarantee, and also includes certain control requirements with respect to our investors.

The GECC Loan and Security Agreement contains events of default including payment default, default arising from the breach of the provisions of the GECC Loan and Security Agreement and related documents or the inaccuracy of representations and warranties contained in the GECC Loan and Security Agreement, attachment default, judgment default, bankruptcy and insolvency, cross-default provision with respect to other material indebtedness, default based on the unenforceability, invalidity or revocation of a the GECC Loan and Security Agreement or any other related documents (including any guarantee or applicable subordination agreement) or any security interests, the occurrence of a material adverse effect (as defined in the GECC Loan and Security Agreement) and certain changes in control, including if our chief executive officer or chief financial officer of the borrower cease to be involved in the daily operations or management of the business, if certain holders cease to own or control at least 51% of our outstanding capital stock, if we cease to own or control all the economic and voting rights of the borrower and if the borrower ceases to own or control, directly or indirectly, all of the economic or voting rights of each of its subsidiaries.

The occurrence of an event of default under the GECC Credit Facility could trigger the acceleration of the obligations under the GECC Credit Facility or allow the agent or lenders to exercise other rights and remedies, including rights against our assets which secure the GECC Credit Facility and rights under guarantees provided to support the obligations under the GECC Credit Facility.

The GECC Loan and Security Agreement contains a number of affirmative and restrictive covenants including reporting requirements, compliance with laws, protection of intellectual property and other collateral covenants, and limitations, subject to certain exceptions set forth in the GECC Loan and Security Agreement, on liens and indebtedness, limitations on dispositions, limitations on mergers and acquisitions, limitations on restricted payments and investments, limitations on transactions with our affiliates, limitations on changes in business, limitations on amendments and waivers of certain agreements, and limitations on waivers and amendments to certain agreements, including certain portions of the Paul Capital agreements, our organizational documents, and documents relating to debt that is subordinate to our obligations under the GECC Credit Facility.

Investor Notes to be Converted to Common Stock.

2009 Convertible Notes. In January 2009, we sold $10.63 million in aggregate principal amount of convertible promissory notes, or the 2009 Convertible Notes, to certain of our existing investors. In connection with the issuance of the 2009 Convertible Notes, we issued warrants to purchase an aggregate of 1,700,000 shares of our common stock with an exercise price of $0.25 per share. The 2009 Convertible Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest on the 2009 Convertible Notes was due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date of the 2009 Convertible Notes was extended to the earliest of (1) a sale of us, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the 2009 Convertible Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Convertible Notes were subordinated to the GECC Credit

Facility, and (ii) an intercreditor agreement with the holders of the 2009 Secured Notes (as described below) and the 2010 Secured Notes (as described below) whereby the 2009 Convertible Notes were subordinated to the 2009 Secured Notes and the 2010 Secured Notes. As of September 30, 2010, $11.5 million aggregate principal and accrued and unpaid interest was outstanding under the 2009 Convertible Notes. We currently expect that all principal and interest due on the 2009 Convertible Notes will be converted into 9,374,446 shares of our common stock upon completion of this offering.

2009 Secured Notes. In June 2009, we entered into an agreement with certain of our existing investors to issue $10.63 million in aggregate principal amount of secured notes, or the 2009 Secured Notes. To secure the performance of our obligations under the purchase agreement for the 2009 Secured Notes, we granted a security interest in substantially all of our assets, including our intellectual property assets, except the assets that secure our obligations under our agreement with Paul Capital. On April 30, 2010, the holders of the 2009 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009 Convertible Notes and our secured notes issued in March 2010, or the 2010 Secured Notes, whereby the 2009 Convertible Notes were subordinated to the 2009 Secured Notes, and the holders of the 2009 Secured Notes agreed to share payments pro rata with the holders of the 2010 Secured Notes.

The 2009 Secured Notes have an interest rate of 12% per year and all principal and accrued and unpaid interest on the 2009 Convertible Notes was due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date of the 2009 Secured Notes was extended to the earliest of (1) a sale of us, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. As of September 30, 2010, $12.0 million aggregate principal and accrued and unpaid interest was outstanding under the 2009 Secured Notes. We currently expect that all principal and interest due on the 2009 Secured Notes will be converted into 9,979,369 shares of our common stock upon completion of this offering.

2010 Secured Notes. In March 2010, we entered into an agreement with certain of our existing investors to issue $15.0 million in aggregate principal amount of secured notes and the investors purchased the entire $15.0 million of 2010 Secured Notes. To secure the performance of our obligations under the purchase agreement for the 2010 Secured Notes, we granted a subordinated security interest in substantially all of our assets, including our intellectual property assets, except the assets that secure our obligations under the Amended and Restated Royalty Interests Agreement. On April 30, 2010, the holders of the 2010 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2010 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009 Convertible Notes and the 2009 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2010 Secured Notes, and the holders of the 2010 Secured Notes agreed to share payments pro rata with the holders of the 2009 Secured Notes.

The 2010 Secured Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest on the 2010 Secured Notes is due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date of the 2010 Secured Notes was extended to the earliest of (1) a sale of us, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. As of September 30, 2010, $15.3 million in aggregate principal and accrued and unpaid interest was outstanding pursuant to the 2010 Secured Notes. We currently expect that all principal and interest due on the 2010 Secured Notes will be converted into 12,439,302 shares of our common stock upon completion of this offering.

HBM Term Loan. On April 30, 2010, we entered into a subordinated secured note purchase agreement with entities affiliated with HBM BioVentures, or HBM, to issue $3.75 million in aggregate principal amount of secured notes, or the HBM Secured Notes. To secure the performance of our obligations under the purchase agreement for the HBM Secured Notes, we granted a subordinated security interest in substantially all of our assets, including our intellectual property assets, other than the assets that secure our obligations under the

Amended and Restated Royalty Interests Agreement. The HBM Secured Notes carry an interest rate of approximately 10% per year. In addition, the HBM Secured Notes require a final payment fee if they are prepaid prior to the maturity date. The maturity date of the HBM Secured Notes is the earliest of (1) a sale of us, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the HBM Secured Notes entered into a subordination agreement with GECC pursuant to which the HBM Secured Notes were subordinated to the GECC Credit Facility. As of September 30, 2010, $3.8 million in aggregate principal and accrued and unpaid interest was outstanding pursuant to the HBM Secured Notes. We currently expect that all principal and interest due on the HBM Secured Notes will be converted into 3,319,598 shares of our common stock upon completion of this offering.

Royalty Interests Assignment Agreement

On March 23, 2007, we entered into the Amended and Restated Royalty Interests Assignment Agreement with Paul Capital, pursuant to which we assigned to Paul Capital the right to receive up to approximately 20% of our royalty payments from DepoCyt(e) and DepoDur. To secure our obligations to Paul Capital, we granted Paul Capital a security interest in collateral which includes the royalty payments we are entitled to receive with respect to sales of DepoCyt(e) and DepoDur, as well as to bank accounts to which such payments are deposited. Under our arrangement with Paul Capital, upon the occurrence of certain events, including if we experience a change of control, undergo certain bankruptcy events of us or our subsidiary, transfer any or substantially all of our rights in DepoCyt(e) and/or DepoDur, transfer all or substantially all of our assets, breach certain of the covenants, representations or warranties under the Amended and Restated Royalty Interests Assignment Agreement, or sales of DepoCyt(e) and/or DepoDur are suspended due to an injunction or if we elect to suspend sales of DepoCyt(e) and/or DepoDur as a result of a lawsuit filed by certain third parties, Paul Capital may require us to repurchase the rights we assigned to it at a cash price equal to (a) 50% of all cumulative payments made by us to Paul Capital under the Amended and Restated Royalty Interests Assignment Agreement during the preceding 24 months, multiplied by (b) the number of days from the date of Paul Capital's exercise of such option until December 31, 2014, divided by 365. Under the terms of the Amended and Restated Royalty Interests Assignment Agreement, this offering would not constitute a change of control.

Future Capital Requirements

We believe that the net proceeds from this offering, together with our existing cash and cash equivalents and revenue from product sales, will be sufficient to enable us to fund our operating expenses, capital expenditure requirements and service our indebtedness for at least the next 12 months. However, no assurance can be given that this will be the case, and we may require additional debt or equity financing to meet our working capital requirements. We expect that the net proceeds from this offering will be sufficient for our planned manufacture and commercialization of EXPAREL in the United States. Our need for additional external sources of funds will depend significantly on the level and timing of our sales of EXPAREL. Moreover, changing circumstances may cause us to expend cash significantly faster than we currently anticipate, and we may need to spend more cash than currently expected because of circumstances beyond our control.

Our expectations regarding future cash requirements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments that we make in the future. We have no current understandings, agreements or commitments for any material acquisitions or licenses of any products, businesses or technologies. We may need to raise substantial additional capital in order to engage in any of these types of transactions.

We expect to continue to incur substantial additional operating losses as we seek FDA approval for and commercialize EXPAREL and develop and seek regulatory approval for our other product candidates. If we obtain FDA approval for EXPAREL, we will incur significant sales and marketing and manufacturing expenses. In addition, we expect to incur additional expenses to add operational, financial and information systems and

personnel, including personnel to support our planned product commercialization efforts. We also expect to incur significant costs to comply with corporate governance, internal controls and similar requirements applicable to us as a public company following the closing of this offering.

Our future use of operating cash and capital requirements will depend on many forward-looking factors, including the following:

- the timing and outcome of the FDA's review of the NDA for EXPAREL;
- the extent to which the FDA may require us to perform additional clinical trials for EXPAREL;
- the timing and success of this offering;
- the costs of our commercialization activities for EXPAREL, if it is approved by the FDA;
- the cost and timing of expanding our manufacturing facilities and purchasing manufacturing and other capital equipment for EXPAREL and our other product candidates;
- the scope, progress, results and costs of development for additional indications for EXPAREL and for our other product candidates;
- the cost, timing and outcome of regulatory review of our other product candidates;
- the extent to which we acquire or invest in products, businesses and technologies;
- the extent to which we choose to establish collaboration, co-promotion, distribution or other similar agreements for our product candidates; and
- the costs of preparing, submitting and prosecuting patent applications and maintaining, enforcing and defending intellectual property claims.

To the extent that our capital resources are insufficient to meet our future operating and capital requirements, we will need to finance our cash needs through public or private equity offerings, debt financings, corporate collaboration and licensing arrangements or other financing alternatives. The covenants under the GECC Credit Facility and the Amended and Restated Royalty Interests Assignment Agreement and the pledge of our assets as collateral limit our ability to obtain additional debt financing. We have no committed external sources of funds. Additional equity or debt financing or corporate collaboration and licensing arrangements may not be available on acceptable terms, if at all.

If we raise additional funds by issuing equity securities, our stockholders will experience dilution. Debt financing, if available, would result in increased fixed payment obligations and may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. Any debt financing or additional equity that we raise may contain terms, such as liquidation and other preferences, that are not favorable to us or our stockholders. If we raise additional funds through collaboration and licensing arrangements with third parties, it may be necessary to relinquish valuable rights to our technologies, future revenue streams or product candidates or to grant licenses on terms that may not be favorable to us.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements, except for operating leases, or relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities.

Contractual Obligations

The following table summarizes our contractual obligations as of December 31, 2009:

	Payments Due by Period				
	Total	2010	2011 and 2012	2013 and 2014	2015 and thereafter
			(in thousands)		
Contractual Obligations [1]:					
Debt obligations [2]	$11,251	—	$ 8,555	$ 2,696	$ —
Interest payments on debt [2]	2,190	485	1,602	103	—
Operating lease obligations [3]	30,038	6,215	10,647	10,104	3,072
	$ 43,479	$ 6,700	$ 20,804	$12,903	$3,072

(1) This table does not include (i) royalties payable to Paul Capital (through 2014 pursuant to the Amended and Restated Royalty Interest Assignment Agreement described in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Royalty Interests Assignment Agreement") and pursuant to the Assignment Agreement with Research Development Foundation; (ii) contingent milestone payments related to EXPAREL due to SkyePharma PLC, including $10 million due upon the first commercial sale of EXPAREL to end users in the United States.

(2) Debt obligations and interest payments include the GECC Credit Facility entered in April 30, 2010, and exclude the secured and unsecured notes and accrued interest thereon to be converted into common stock.

(3) Includes building and equipment leases.

Recent Accounting Pronouncements

We have adopted new accounting guidance on fair value measurements effective January 1, 2008, for financial assets and liabilities. In addition, effective January 1, 2009, we adopted this guidance as it relates to nonfinancial assets and liabilities that are not recognized or disclosed at fair value in the financial statements on at least an annual basis. This guidance defines fair value as the price that would be received to sell an asset or paid to transfer a liability, referred to as the exit price, in an orderly transaction between market participants at the measurement date. The guidance outlines a valuation framework and creates a fair value hierarchy in order to increase the consistency and comparability of fair value measurements and the related disclosures. The adoption of this guidance did not have a material impact on our financial statements.

In June 2008, the Financial Accounting Standards Board, or FASB, issued new guidance related to assessing whether an equity-linked financial instrument (or embedded feature) is indexed to an entity's own stock for the purposes of determining whether such equity-linked financial instrument (or embedded feature) is subject to derivative accounting. We adopted this new guidance effective January 1, 2009. The adoption of this guidance did not have a material impact on our financial statements.

In May 2009, the FASB issued a new standard regarding subsequent events. The standard provides guidance on management's assessment of subsequent events and incorporates this guidance in accounting literature. The guidance is effective prospectively for interim and annual periods ending after June 15, 2009. We adopted this guidance beginning with the interim period ended June 30, 2009. The adoption of this guidance did not have a material impact on our financial statements.

In April 2009, the FASB issued a staff position requiring fair value disclosures in both interim and annual financial statements in order to provide more timely information about the effects of current market conditions on financial instruments. The guidance is effective for interim and annual periods ending after June 15, 2009. We adopted this guidance beginning with the issuance of our September 30, 2009 financial statements. The adoption of this guidance did not have a material impact on our financial statements.

In June 2009, the FASB Accounting Standards Codification, or ASC, was issued, effective for financial statements issued for interim and annual periods ending after September 15, 2009. The ASC supersedes literature of the FASB, Emerging Issues Task Force and other sources. The ASC did not change U.S. generally accepted accounting principles. The adoption of this guidance did not have a material impact on our financial statements.

Quantitative and Qualitative Disclosures about Market Risk

The primary objective of our investment activities is to preserve our capital to fund operations. We also seek to maximize income from our investments without assuming significant risk. Our exposure to market risk is confined to our cash and cash equivalents. As of June 30, 2010, we had cash and cash equivalents of $12.4 million. We do not engage in any hedging activities against changes in interest rates. Because of the short-term maturities of our cash and cash equivalents, we do not believe that an increase in market rates would have any significant impact on the realized value of our investments, but may increase the interest expense associated with our debt.

We have commercial partners for DepoCyte and DepoDur who sell our products in the EU. Under these agreements, we provide finished goods to our commercial partners in exchange for euro-denominated supply revenue, and we also receive euro-denominated royalties on market sales when the products are sold to end users. Under these agreements, we received $3.9 million in the six months ended June 30, 2010, $7.2 million in the year ended December 31, 2009 and $7.3 million in the year ended December 31, 2008 from these commercial partners.

Because of these agreements, we are subject to fluctuations in exchange rates, specifically in the relative values of the U.S. dollar and the euro. We estimate that an unfavorable fluctuation in interest rates of 10% would have a $0.7 million impact on our annual revenue.

BUSINESS

Overview

We are an emerging specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products, based on our proprietary DepoFoam drug delivery technology, for use in hospitals and ambulatory surgery centers. We have filed a New Drug Application, or NDA, for our lead product candidate, EXPAREL, a long-acting bupivacaine (anesthetic/analgesic) product for postsurgical pain management. Our clinical data demonstrates that EXPAREL provides analgesia for up to 72 hours post-surgery, compared with seven hours or less for bupivacaine. We believe EXPAREL will address a significant unmet medical need for a long-acting non-opioid postsurgical analgesic, resulting in simplified postsurgical pain management and reduced opioid consumption, leading to improved patient outcomes and enhanced hospital economics. We estimate there are approximately 24 million surgical procedures performed annually in the United States where EXPAREL could be used. EXPAREL will be launched by certain members of our management team who have successfully launched multiple products in the hospital market.

EXPAREL consists of bupivacaine encapsulated in DepoFoam, both of which are used in FDA-approved products. DepoFoam, our extended release drug delivery technology, is the basis for our two FDA-approved commercial products: DepoCyt(e) and DepoDur, which we manufacture for our commercial partners. DepoFoam-based products have been manufactured for over a decade and have an extensive safety record and regulatory approvals in the United States, European countries and other territories. Bupivacaine, a well-characterized, FDA-approved anesthetic/analgesic, has an established safety profile and over 20 years of use in the United States.

EXPAREL has demonstrated efficacy and safety in two multicenter, randomized, double-blind, placebo-controlled, pivotal Phase 3 clinical trials in patients undergoing soft tissue surgery (hemorrhoidectomy) and orthopedic surgery (bunionectomy). Overall, EXPAREL has demonstrated safety in over 1,300 subjects. In September 2010, we filed an NDA for EXPAREL with the United States Food and Drug Administration, or FDA, using a 505(b)(2) application. We are initially seeking approval for postsurgical analgesia by local administration into the surgical wound, or infiltration, a procedure commonly employing bupivacaine. Under the Prescription Drug User Fee Act, or PDUFA, guidelines, the FDA has a goal of ten months from the date of NDA filing to make a decision regarding the approval of our filing. We also plan to expand the indications of EXPAREL to include nerve block and epidural administration, markets where bupivacaine is also used routinely.

Our current product portfolio and product candidate pipeline is summarized in the table below:

Product(s)/ Product Candidate(s)	Primary Indication(s)	Status	Commercialization Rights
EXPAREL	Postsurgical analgesia by infiltration	NDA (submitted)	Pacira (worldwide)
	Postsurgical analgesia by nerve block	Phase 2/3 (planning)	Pacira (worldwide)
	Postsurgical analgesia by epidural administration	Phase 1 (completed)	Pacira (worldwide)
DepoCyt(e)	Lymphomatous meningitis	Marketed	Sigma-Tau Pharmaceuticals Mundipharma International
DepoDur	Post-operative pain	Marketed	EKR Therapeutics Flynn Pharmaceuticals
DepoNSAID	Acute pain	Preclinical	Pacira (worldwide)
DepoMethotrexate	Rheumatoid arthritis	Preclinical	Pacira (worldwide)
	Oncology	Preclinical	Pacira (worldwide)

Our Strategy

Our goal is to be a leading specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products principally for use in hospitals and ambulatory surgery centers. We plan to achieve this by:

- obtaining FDA approval for EXPAREL in the United States for postsurgical analgesia by local infiltration;
- building a streamlined commercial organization concentrating on major hospitals and ambulatory surgery centers in the United States and targeting surgeons, anesthesiologists, pharmacists and nurses;
- working directly with managed care payers, quality improvement organizations, key opinion leaders, or KOLs, in the field of postsurgical pain management and leading influence hospitals with registry programs to demonstrate the economic benefits of EXPAREL;
- securing commercial partnerships for EXPAREL in regions outside of the United States;
- obtaining FDA approval for nerve block and epidural administration indications for EXPAREL;
- manufacturing all our DepoFoam-based products, including EXPAREL, DepoCyt(e) and DepoDur, in our current Good Manufacturing Practices, or cGMP, compliant facilities; and
- continuing to expand our marketed product portfolio through development of additional DepoFoam-based hospital products utilizing a 505(b)(2) strategy.

Postsurgical Pain Market Overview

According to Thomson Reuters, roughly 45 million surgical procedures were performed in the United States during the twelve months ending in October 2007. We estimate there are approximately 24 million surgical procedures performed annually in the United States where EXPAREL could be used to improve patient outcomes and enhance hospital economics. Postsurgical pain is a response to tissue damage during surgery that stimulates peripheral nerves, which signal the brain to produce a sensory and psychological response. Numerous studies reveal that the incidence and severity of postsurgical pain is primarily determined by the type of surgery, duration of surgery and the pain treatment choice following surgery. Postsurgical pain is usually greatest the first few days after the completion of a surgical procedure.

Limitations of Current Therapies for Postsurgical Pain

Substantially all surgical patients experience postsurgical pain, with approximately 50% reporting inadequate pain relief according to epidemiological studies. Unrelieved acute pain causes patient suffering and can lead to other health problems, which delays recovery from surgery and may result in higher healthcare costs. According to the Agency for Healthcare Research and Quality, aggressive prevention of pain is better than treatment of pain because, once established, pain is more difficult to suppress. Current multimodal therapy for postsurgical pain includes wound infiltration with local anesthetics combined with the systemic administration of opioid and non-steroidal anti-inflammatory drug, or NSAID, analgesics.

Local Anesthetics

Treatment of postsurgical pain typically begins at the end of surgery, with local anesthetics, such as bupivacaine, administered by local infiltration. Though this infiltration provides a base platform of postsurgical pain management for the patient, efficacy of conventional bupivacaine and other available local anesthetics is limited, lasting seven hours or less. As local infiltration is not practical after the surgery is complete, and as surgical pain is greatest in the first few days after surgery, additional therapeutics are required to manage postsurgical pain.

Opioids

Opioids, such as morphine, are the mainstay of postsurgical pain management but are associated with a variety of unwanted and potentially severe side effects, leading healthcare practitioners to seek opioid-sparing strategies for their patients. Opioid side effects include sedation, nausea, vomiting, urinary retention, headache, itching, constipation, cognitive impairment, respiratory depression and death. Side effects from opioids have been demonstrated to reduce the patient's quality of life and result in suboptimal pain relief. These side effects may require additional medications or treatments and prolong a patient's stay in the post-anesthesia care unit and the hospital or ambulatory surgery center, thereby increasing costs significantly.

PCA and Elastomeric Bag Systems

Opioids are often administered intravenously through patient controlled analgesia, or PCA, systems in the immediate postsurgical period. The total cost of PCA postsurgical pain management for three days can be up to $500, not including the costs of treating opioid complications. In an attempt to reduce opioid usage, many hospitals employ elastomeric bag systems designed to deliver bupivacaine to the surgical area through a catheter over a period of time. This effectively extends the duration of bupivacaine in the postsurgical site but has significant shortcomings.

PCA systems and elastomeric bag systems are clumsy and difficult to use, which may delay patient ambulation and introduce catheter-related issues, including infection. In addition, PCA systems and elastomeric bags require significant hospital resources to implement and monitor.

NSAIDs

NSAIDs are considered to be useful alternatives to opioids for the relief of acute pain since they do not produce respiratory depression or constipation. Despite these advantages, the use of injectable NSAIDs, such as ketorolac and ibuprofen, is severely limited in the postsurgical period because they increase the risk of bleeding and gastrointestinal and renal complications.

Our Solution—EXPAREL

Based on our clinical trial data, EXPAREL provides continuous and extended postsurgical analgesia for up to 72 hours and reduces the consumption of supplemental opioid medications. We believe this will simplify postsurgical pain management, minimize breakthrough episodes of pain and result in improved patient outcomes and enhanced hospital economics.

Our EXPAREL strategy has four principal elements:

Replace the use of bupivacaine in postsurgical infiltration. We believe EXPAREL:

- extends postsurgical analgesia for up to 72 hours, from seven hours or less;
- utilizes existing postsurgical infiltration administration techniques;
- dilutes easily with saline to reach desired volume;
- is a ready-to-use formulation; and
- facilitates treatment of both small and large surgical wounds.

Become the foundation of a postsurgical pain management regimen in order to reduce and delay opioid usage. We believe EXPAREL:

- significantly delays and reduces opioid usage while improving postsurgical pain management as demonstrated in our Phase 3 hemorrhoidectomy trial, in which EXPAREL demonstrated the following:
  - delayed first opioid usage to approximately 14 hours post-surgery, compared to approximately one hour for placebo;
  - significantly increased percentage of patients requiring no opioid rescue medication through 72 hours post-surgery, to 28% compared to 10% for placebo;
  - 45% less opioid usage at 72 hours post-surgery compared to placebo; and
  - increased percentage of patients who are pain free at 24 hours post-surgery compared to placebo; and
- may reduce hospital cost and staff monitoring of PCA systems.

Improve patient satisfaction. We believe EXPAREL:

- reduces the need for patients to be constrained by elastomeric bags and PCA systems, which are clumsy, difficult to use and may introduce catheter-related issues, including infection;
- promotes maintenance of early postsurgical pain management, thereby reducing the time spent in the intensive care unit; and
- promotes early ambulation, which potentially reduces the risk of life-threatening blood clots, and allows quicker return of bowel function, thereby leading to a faster switch to oral nutrition and medicine, and thus a faster discharge from the hospital.

Develop and seek approval of EXPAREL for nerve block and epidural administration. We believe these additional indications for EXPAREL:

- present a low-risk, low-cost opportunity for clinical development; and
- will enable us to fully leverage our manufacturing and sales infrastructure.

EXPAREL Development Program

EXPAREL has demonstrated efficacy and safety in two multicenter, randomized, double-blind, placebo-controlled, pivotal Phase 3 clinical trials in patients undergoing soft tissue surgery (hemorrhoidectomy) and orthopedic surgery (bunionectomy). At a pre-NDA meeting in February 2010, the FDA acknowledged that the two pivotal Phase 3 clinical trials conducted by us, in patients undergoing hemorrhoidectomy and bunionectomy surgeries, appeared to be appropriately designed to evaluate the safety and efficacy of EXPAREL. Both trials met their primary efficacy endpoints in demonstrating statistically significant analgesia through 72 hours for the hemorrhoidectomy trial and 24 hours for the bunionectomy trial. Both trials also met multiple secondary endpoints, including decreased opioid use and delayed time to first opioid use. These two pivotal Phase 3 clinical trials formed the basis of the evidence for efficacy in the NDA for EXPAREL.

The safety of EXPAREL has been demonstrated in 21 clinical trials consisting of nine Phase 1 trials, seven Phase 2 trials and five Phase 3 trials. EXPAREL was administered to over 1,300 human patients at doses ranging from 10 mg to 750 mg administered by local infiltration into the surgical wound, and by subcutaneous, perineural, epidural and intraarticular administration. In all 21 clinical trials, EXPAREL was well tolerated. The most common treatment emergent adverse events in the EXPAREL and placebo groups were nausea and vomiting and occurred with similar frequency across the EXPAREL and placebo groups. No signal of any of the central nervous system or cardiovascular system adverse events typically observed with high doses of

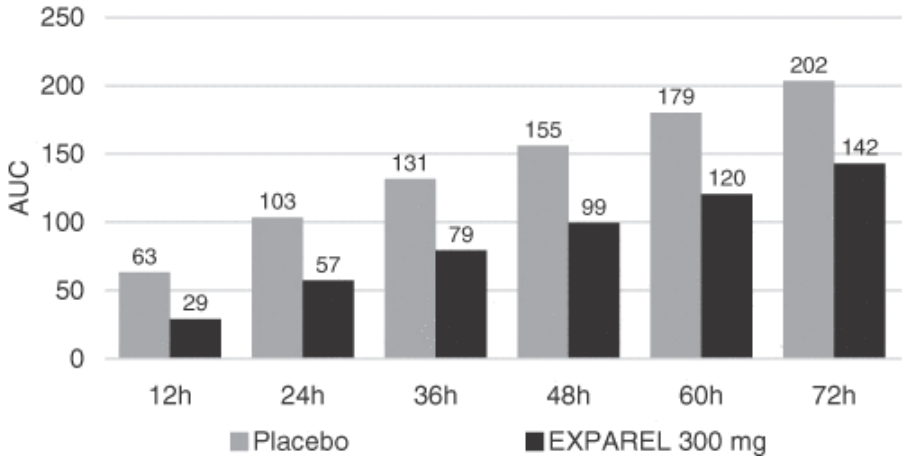
bupivacaine has been observed with EXPAREL. We conducted two thorough QTc studies that demonstrated that EXPAREL did not cause significant QTc prolongation (a measure of cardiac safety mandated by the FDA for all new products) even at the highest dose evaluated. No events of destruction of articular cartilage, or chondrolysis, have been reported in any of the EXPAREL trials. EXPAREL did not require dose adjustment in patients with mild to moderate liver impairment.

Pivotal Phase 3 Clinical Trials

Hemorrhoidectomy. Our pivotal Phase 3 hemorrhoidectomy clinical trial was a multicenter, randomized, double-blind, placebo-controlled trial conducted in 189 patients at 14 sites in Europe. The study enrolled patients 18 years of age or older undergoing a two or three column excisional hemorrhoidectomy under general anesthesia using the Milligan-Morgan technique, a commonly used method for surgically removing hemorrhoids. We studied a 300 mg dose of EXPAREL with a primary endpoint of pain control for up to 72 hours with morphine rescue medication available to both trial groups. Additional endpoints included the proportion of pain-free patients, proportion of patients requiring opioid rescue medication, total opioid usage, time to first use of opioid rescue medication and patient satisfaction.

The 300 mg dose of EXPAREL provided a statistically significant 30% reduction in pain ($p<0.0001$), as measured by the area under the curve, or AUC, of the NRS-R pain scores at 72 hours and all additional time points measured up to 72 hours. The numeric rating scale at rest score, or the NRS-R, is a commonly used patient reported measurement of pain. Under the NRS-R, severity of pain is measured on a scale from 0 to 10, with 10 representing the worst possible pain. The AUC of the NRS-R pain score represents a sum of the patient's pain measured at several time points using the NRS-R, from time of surgery to the specified endpoint. A lower number indicates less cumulative pain. The p-value is a measure of probability that the difference between the placebo group and the EXPAREL group is due to chance (e.g., $p = 0.01$ means that there is a 1% (0.01 = 1.0%) chance that the difference between the placebo group and EXPAREL group is the result of random chance as opposed to the EXPAREL treatment). A p-value less than or equal to 0.05 (0.05 = 5%) is commonly used as a criterion for statistical significance.

Phase 3 Hemorrhoidectomy Clinical Trial: AUC of NRS-R Pain Intensity Scores from Initial Infiltration Timepoint, EXPAREL Compared to Placebo



Note: Differences between study groups were statistically significant at 72 hours ($p<0.0001$), the primary endpoint, and all additional time points measured ($p<0.0001$).

In secondary endpoints, EXPAREL demonstrated efficacy in reducing the use of opioid rescue medication, which was available to both the EXPAREL treatment group and the placebo treatment group. Approximately three times the number of patients in the EXPAREL treatment group avoided opioid rescue medication

altogether, and patients in the EXPAREL treatment group showed 45% less opioid usage compared to the placebo treatment group at 72 hours. Opioid related secondary endpoints included:

- Total avoidance of opioid rescue medication. 28% of patients treated with EXPAREL received no postsurgical opioid rescue pain medication through 72 hours post-dose. By contrast only 10% of placebo treated patients avoided all opioid rescue medication through 72 hours, and this difference was statistically significant (p=0.0007);
- Reduced total consumption of opioid rescue medication. The adjusted mean total postsurgical consumption of supplemental opioid pain medication was 45% lower in patients treated with EXPAREL compared to the placebo treatment group through 72 hours (p=0.0006) post-dose; and
- Delayed use of opioid rescue medication. EXPAREL delayed the median time to first opioid use from approximately one hour in the placebo treatment group to approximately 14 hours in the EXPAREL treatment group and this difference was statistically significant (p<0.0001). At 14 hours post-surgery compared to one hour post-surgery, patients have substantially recovered from the effects of surgical anesthesia and are able to tolerate oral opioids and require less intensive monitoring.

In addition to the reduced usage of opioids compared to patients receiving placebo, secondary endpoints also demonstrated that patients in the EXPAREL treatment group had higher satisfaction scores and more were pain free compared to those in the placebo treatment group.

- More pain free patients. A greater percentage of patients treated with EXPAREL were pain free compared to the placebo treatment group, and the difference reached statistical significance at all times up to and through 24 hours post-dose (p=0.0448); and
- Improved patient satisfaction. A greater percentage of patients treated with EXPAREL were “extremely satisfied” compared to the placebo treatment group, and the difference was statistically significant (p=0.0007) at 24 and 72 hours post-dose.

We believe that this combination of reduced opioid usage and continuous and extended postsurgical pain management highlights the efficacy of EXPAREL and its ability to be used as a part of a multimodal, opioid sparing postsurgical pain management strategy.

Bunionectomy. Our pivotal Phase 3 bunionectomy clinical trial was a multicenter, randomized, double-blind, placebo-controlled trial conducted in 193 patients at four sites in the United States. The study enrolled patients 18 years of age or older undergoing a bunionectomy. We studied a 120 mg dose of EXPAREL with a primary endpoint of pain control at 24 hours, the critical period for postsurgical pain management in bunionectomy, with opioid rescue medication available to both trial groups. EXPAREL provided a statistically significant reduction in pain, as measured by the AUC of the NRS-R pain scores at 24 hours (p=0.0005). This reduction was also statistically significant at 36 hours.

EXPAREL also achieved statistical significance in secondary endpoints related to pain measurement and the use of opioid rescue medication, which was available to both patients in the EXPAREL treatment group and the placebo treatment group, including:

- Total avoidance of opioid rescue medication. The difference between treatment groups in the percentage of patients who received opioid rescue pain medication was statistically significant, favoring the group treated with EXPAREL compared to the placebo treatment group through 12 hours (p=0.0003) and 24 hours (p=0.0404);
- Delayed use of opioid rescue medication. EXPAREL delayed the median time before first opioid use compared to the placebo treatment group and this difference was statistically significant (p<0.0001); and
- More pain free patients. A statistically significant increase in the percentage of pain free patients was observed between treatment groups, favoring the group treated with EXPAREL compared to the placebo treatment group at 2 hours (p=0.0019), 4 hours (p=0.0002), 8 hours (p=0.0078) and 48 hours (p=0.0153) post-dose. The difference between groups was not statistically significant at 24 hours post-dose.

Other Clinical Trials

In 2009, we completed two Phase 3 clinical trials comprising 223 patients who received EXPAREL, comparing them to patients who received bupivacaine in a multimodal setting where patients received additional concomitant analgesics. One of these Phase 3 clinical trials was for total knee arthroplasty and the other was for hemorrhoidectomy. Although EXPAREL performed as expected and continued to demonstrate its safety and tolerability, due to the unexpectedly positive results in the control arm, these trials did not meet their primary endpoint. The results of these studies influenced some of the inclusion and exclusion criteria and protocol specified measures used in our successful pivotal Phase 3 clinical trials described above.

Based on the outcome of these two trials, in 2009, we discontinued a Phase 3 clinical trial in breast augmentation early. At the time of discontinuation, we had only enrolled approximately half of the number of patients required to demonstrate statistical significance. EXPAREL demonstrated a positive trend and safety, but did not meet the primary efficacy endpoint. We have collected data on all patients for whom data was available and expect to publish this data in a peer reviewed medical journal.

We have completed seven Phase 2 clinical trials, five of which were in wound infiltration. A total of 452 patients received various doses of EXPAREL and/or bupivacaine in various surgical settings including hernia repair, total knee arthroplasty, hemorrhoidectomy, and breast augmentation. The data from these Phase 2 clinical trials guided the dose selection for our successful pivotal Phase 3 clinical trials, which formed the basis of our NDA.

EXPAREL Health Economic Benefits

In addition to being efficacious and safe, we believe that EXPAREL provides health economic benefits that play an important role in formulary decision making and these health economic benefits are an often over-looked factor in planning for the commercial success of a pharmaceutical product. Several members of our management team have extensive experience applying health economic outcomes research to support the launch of successful commercial products. Our strategy is to work directly with managed care payers, quality improvement organizations, KOLs in the field of postsurgical pain management and leading influence hospitals with registry programs to demonstrate the economic benefits of EXPAREL.

EXPAREL is designed as a single postsurgical injection intended to replace the current use of clumsy and expensive PCA systems and elastomeric bag systems, reduce the consumption of opioids, and their related side effects, and reduce the length of stay in the hospital, all factors that negatively impact patient outcomes and hospital economics. For example, in our Phase 2 hemorrhoidectomy trial, 300 mg of EXPAREL reduced pain by 47%, as measured by the AUC of the NRS-R pain scores, with a 66% reduction in opioid consumption and a corresponding 89% reduction in opioid related adverse events through 72 hours, compared to the standard 75 mg dose of bupivacaine.

We intend to expand upon the results of this Phase 2 hemorrhoidectomy trial with commercial registry programs designed to confirm that the administration of EXPAREL in the surgical setting improves patient outcomes while consuming fewer resources. We intend to develop publications, abstracts, clinical pharmacology newsletters and meeting presentations that demonstrate the value of EXPAREL as the foundation for effective multimodal postsurgical pain management. In addition, we plan to develop new treatment protocols for postsurgical pain management overall and in specific patient populations.

Reimbursement for surgical procedures is typically capitated, or fixed by third-party payers based on the specific surgical procedure performed regardless of the cost or amount of treatments provided. However, many patients, including those who are elderly, obese, suffer from sleep apnea or are opioid tolerant, are likely to have a high incidence of opioid-related adverse events, increasing the length of stay and the cost relative to the capitated reimbursement. We intend to conduct commercial registry studies to demonstrate reduced opioid use,

reduced opioid-related adverse effects, lower total resource consumption, reduced length of stay and greater patient satisfaction. Furthermore, the use of EXPAREL to reduce opioid consumption may also present the opportunity to move selected hospital procedures to the ambulatory setting.

EXPAREL Regulatory Plan

In September 2010, we filed an NDA for EXPAREL with the FDA, using a 505(b)(2) application. We are initially seeking FDA approval of EXPAREL for postsurgical analgesia by local administration into the surgical wound, or infiltration, a procedure commonly employing bupivacaine. Under the PDUFA guidelines, the FDA has a goal of ten months from the date of an NDA filing to make a decision regarding the approval of our filing. Section 505(b)(2) of the Federal Food, Drug and Cosmetic Act, or the FFDCA, permits the submission of an NDA where at least some of the information required for approval comes from studies not conducted by or for the applicant, and for which the applicant has not obtained a right of reference. Supportive information may also include scientific literature and publicly available information contained in the labeling of other medications.

EXPAREL consists of bupivacaine encapsulated in DepoFoam, both of which are used in FDA-approved products:

- Bupivacaine, a well-characterized generic anesthetic/analgesic, has an established safety profile and over 20 years of use in the United States.
- DepoFoam, modified to meet the requirements of each product, is used to extend the release of the active drug substances in the marketed products DepoCyt(e) and DepoDur.

We have requested a clinical trial waiver for children under two years of age. We have also requested and currently expect to receive a deferral for patients 2-18 years of age until patients in these groups can be studied in an appropriate step-wise manner. Three Phase 2/3 trials are planned, first in children 12-18 years old, then 6-11 years old, then 2-5 years old. The waiver and deferral, if granted, will allow us to conduct these trials after the approval of our NDA.

Additional Indications

We are pursuing several additional indications for EXPAREL and expect to submit a supplemental NDA, or sNDA, for nerve block and epidural administration. We believe that these additional indications for EXPAREL present a low-risk, low-cost opportunity for clinical development and will allow us to fully leverage our manufacturing and commercial infrastructure.

Nerve Block. Nerve block is a general term used to refer to the injection of local anesthetic onto or near nerves for control of pain. Nerve blocks can be single injections but have limited duration of action. When extended pain management is required, a catheter is used to deliver bupivacaine continuously using an external pump. According to Thomson Data over eight million nerve block procedures were conducted in the United States in 2008, with over four million of these procedures utilizing bupivacaine. EXPAREL is designed to provide extended pain management with a single injection utilizing a narrow gauge needle.

We have completed two Phase 2 clinical trials in which 40 patients received EXPAREL for nerve block. EXPAREL demonstrated efficacy and was safe and well tolerated in these clinical trials. We expect to conduct additional clinical trials in this indication.

Epidural Administration. An epidural is a form of regional anesthesia involving injection of anesthetic drugs into the outermost part of the spinal canal, or the epidural space. Epidurals can be single injections but have limited duration of action. When extended pain management is required, a catheter is placed into the epidural space and the anesthetic drug is delivered continuously using an external pump. According to IMS and

Thomson Data, over six million epidural procedures were conducted in the United States in 2007, with over 590,000 of these procedures utilizing local anesthetics, including bupivacaine. EXPAREL is designed to provide extended pain management with a single injection utilizing a narrow gauge needle.

We have completed one Phase 1 clinical trial in which 24 subjects received EXPAREL by epidural administration that demonstrated proof of concept for this indication. EXPAREL was safe and well tolerated in this clinical trial. We expect to conduct additional clinical trials in this indication.

Sales and Marketing

We currently intend to develop and commercialize EXPAREL and our other product candidates in the United States while out-licensing commercialization rights for other territories. Our goal is to retain significant control over the development process and commercial execution for our product candidates, while participating in a meaningful way in the economics of all drugs that we bring to the market.

The members of our management team who will lead the commercialization of EXPAREL, if it is approved, have successfully commercialized multiple products in the hospital market, including Rocephin, Versed, Zantac IV and Angiomax. We are currently developing our commercialization strategy, with the input of KOLs in the field of postsurgical pain management as well as healthcare practitioner and quality improvement organizations. We continue to expand our pre-commercialization activities including EXPAREL positioning and messaging, publication strategy, Phase 3b/4 clinical trials and registry trials, initiatives with payer organizations, and distribution and national accounts strategies.

If EXPAREL is approved, we intend to hire our own dedicated field sales force, consisting of approximately 40 representatives at the time of the commercial launch, to commercialize the product. Within three years of launch we expect to have approximately 100 representatives, which we estimate can effectively cover our hospital and ambulatory surgery customers in the United States. We believe a typical sales representative focused on office-based healthcare practitioners can effectively reach five to seven healthcare practitioners per day; whereas, a typical hospital-focused sales representative can reach many more healthcare practitioners. Notably, a hospital-focused sales representative faces significantly less travel time between sales calls and less wait time in healthcare practitioner offices as a large number of prescribers can be found in a single location. Our sales force will be supported by marketing as well as several teams of healthcare professionals who will support our formulary approval and customer education initiatives.

The target audience for EXPAREL is healthcare practitioners who influence pain management decisions, including surgeons, anesthesiologists, pharmacists and nurses. Our commercial sales force will focus on reaching the top 1,000 U.S. hospitals performing surgical procedures (based on Thomson Reuters benchmark obstetrician and gynecological, general and orthopedic surgical procedures performed within these hospitals), which represent approximately 70% of the market opportunity for EXPAREL. If we obtain regulatory approvals for additional indications for EXPAREL and our other product candidates, our targeted audience may change to reflect new market opportunities.

DepoFoam—Our Proprietary Drug Delivery Technology

Our current product development activities utilize our proprietary DepoFoam drug delivery technology. DepoFoam consists of microscopic spherical particles composed of a honeycomb-like structure of numerous internal aqueous chambers containing an active drug ingredient. Each chamber is separated from adjacent chambers by lipid membranes. Following injection, the DepoFoam particles release drug over an extended period of time by erosion and/or reorganization of the particles' lipid membranes. Release rates are determined by the choice and relative amounts of lipids in the formulation.

Our DepoFoam formulation provides several technical, regulatory and commercial advantages over competitive technologies, including:

- Convenience. Our DepoFoam products are ready to use and do not require reconstitution or mixing with another solution, and can be used with patient friendly narrow gauge needles and pen systems;
- Multiple regulatory precedents. Our DepoFoam products, DepoCyt(e) and DepoDur, have been approved in the United States and Europe, making regulatory authorities familiar with our DepoFoam technology;
- Extensive safety history. Our DepoFoam products have over ten years of safety data as DepoCyt(e) has been sold in the United States since 1999;
- Administration into privileged sites. Our DepoFoam products are approved for epidural administration (DepoDur) and intrathecal injection (DepoCyt(e)) and may potentially be used for intraocular and intratumoral administration;
- Proven manufacturing capabilities. We continue to make DepoFoam-based products in our cGMP facilities on a daily basis as we prepare for the launch of EXPAREL;
- Flexible time release. Encapsulated drug releases over a desired period of time, from 1 to 30 days;
- Favorable pharmacokinetics. Decrease in adverse events associated with high peak blood levels, thereby improving the utility of the product;
- Shortened development timeline. Does not alter the native molecule potentially enabling the filing of a 505(b)(2) application; and
- Aseptic manufacturing and filling. Enables use with proteins, peptides, nucleic acids, vaccines and small molecules.

Other Products

Depocyt(e)

DepoCyt(e) is a sustained-release liposomal formulation of the chemotherapeutic agent cytarabine utilizing our DepoFoam technology. Depocyt(e) is indicated for the intrathecal treatment of lymphomatous meningitis, a life-threatening complication of lymphoma, a cancer of the immune system. Lymphomatous meningitis can be controlled with conventional cytarabine, but because of the drug's short half-life, a spinal injection is required twice per week, whereas DepoCyt(e) is dosed once every two weeks in an outpatient setting. DepoCyt(e) was granted accelerated approval by the FDA in 1999 and full approval in 2007. We received revenue from DepoCyt(e) of $9.6 million from our commercial partners in 2009.

DepoDur

DepoDur is an extended-release injectable formulation of morphine utilizing our DepoFoam technology. DepoDur is indicated for epidural administration for the treatment of pain following major surgery. DepoDur is designed to provide effective pain relief of up to 48 hours and has demonstrated improved patient mobility and freedom from indwelling catheters. DepoDur was approved by the FDA in 2004. We received revenue from DepoDur of $0.8 million from our commercial partners in 2009.

Other Product Candidates

DepoNSAID

Our preclinical product candidates, extended release formulations of NSAIDs, are designed to provide the benefits of injectable NSAIDs with a prolonged duration of action in order to improve patient care and ease of use in the acute pain environment. Currently available injectable products provide a four to six hour duration of action. We believe that there is an unmet medical need for a product which could provide a longer duration of

action, especially for postsurgical pain management as part of a multimodal pain regimen. Prolonged intra-articular delivery of NSAIDs is also being evaluated for acute pain in major joints due to injury or arthritis. We have DepoFoam formulations for several NSAIDs, and we expect to select a lead product candidate in 2011.

DepoMethotrexate

Our preclinical product candidate, an extended release formulation of methotrexate, is designed to improve the market utility of methotrexate, the most commonly used disease modifying anti-rheumatic drug currently being prescribed for over 500,000 patients globally. While methotrexate is the established standard of care for first line therapy in rheumatoid arthritis, this agent is commonly associated with nausea, vomiting and drowsiness due to high peak blood levels immediately following traditional administration. Our product candidate is designed to address the medical need for a patient friendly and cost effective formulation which can be utilized to improve patient compliance and the ability to tolerate methotrexate therapy. We believe DepoMethotrexate will also allow healthcare providers to treat these patients more aggressively, improve efficacy outcomes and avoid the progression to more expensive alternatives such as biologic therapies. We currently have one year of stability data for our desired product formulation.

Commercial Partners and Agreements

SkyePharma

In connection with the stock purchase agreement related to the Acquisition, we agreed to pay SkyePharma Holdings, Inc., or SPHI, a specified contingent milestone payment related to EXPAREL sales. Additionally, we agreed to pay to SPHI a low single-digit royalty of our sales of EXPAREL in the United States, Japan, the United Kingdom, France, Germany, Italy and Spain.

Research Development Foundation

Pursuant to an agreement with one of our stockholders, the Research Development Foundation, or RDF, we are required to pay RDF a low single-digit royalty on our gross revenues, as defined in our agreement with RDF, from our DepoFoam-based products.

Sigma-Tau Pharmaceuticals

In December 2002, we entered into a supply and distribution agreement with Enzon Pharmaceuticals Inc. regarding the sale of DepoCyt. Pursuant to the agreement, Enzon was appointed the exclusive distributor of DepoCyt in the United States and Canada. In January 2010, Sigma-Tau Pharmaceuticals, Inc., or Sigma-Tau, acquired the rights to sell DepoCyt from Enzon Pharmaceuticals for the United States and Canada. Under the supply and distribution agreement, we supply unlabeled DepoCyt vials to Sigma-Tau for finished packaging. Under these agreements, we receive a fixed payment for manufacturing the vials of DepoCyt and a double-digit royalty on sales by Sigma-Tau in the United States and Canada.

Mundipharma International Holdings Limited

In June 2003, we entered into an agreement granting Mundipharma International Holdings Limited, or Mundipharma, exclusive marketing and distribution rights to DepoCyte in the European Union and certain other European countries. Under the agreement, as amended, and a separate supply agreement, we receive a fixed payment for manufacturing the vials of DepoCyte and a double-digit royalty on sales in the applicable territories by Mundipharma.

EKR Therapeutics Inc.

In August 2007, we entered into a licensing, distribution and marketing agreement with EKR Therapeutics, Inc., or EKR, granting them exclusive distribution rights to DepoDur in North America, South America and Central America. Under this agreement, as amended, we receive a fixed payment for manufacturing the vials of DepoDur and a double-digit royalty on sales in the applicable territories by EKR.

Flynn Pharma Limited

In September 2007, we entered into a marketing agreement with Flynn Pharma Limited, or Flynn, granting them exclusive distribution rights to DepoDur in the European Union, certain other European countries, South Africa and the Middle East. Under this agreement and a separate supply agreement with Flynn, we provide DepoDur manufacturing supply of finished product for sale in the territories licensed by Flynn, and we receive a fixed payment for manufacturing the vials of DepoDur and a double-digit royalty on sales in the applicable territories by Flynn.

Paul Capital

On March 23, 2007, we entered into an amended and restated royalty interests assignment agreement with Paul Capital, pursuant to which we assigned to Paul Capital the right to receive a portion of our royalty payments from DepoCyt(e) and DepoDur. For additional information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Royalty Interests Assignment Agreement" and "Risk Factors—Risks Related to Our Financial Condition and Capital Requirements—Under our financing arrangement with Paul Capital, upon the occurrence of certain events, Paul Capital may require us to repurchase the right to receive royalty payments that we assigned to it, or may foreclose on certain assets that secure our obligations to Paul Capital. Any exercise by Paul Capital of its right to cause us to repurchase the assigned right or any foreclosure by Paul Capital would adversely affect our results of operations and our financial condition."

Feasibility Agreements with Third Parties

In the ordinary course of our business activities, we enter into feasibility agreements with third parties who desire access to our proprietary DepoFoam technology to conduct research, feasibility and formulation work. Under these agreements, we are compensated to perform feasibility testing on a third-party product to determine the likelihood of developing a successful formulation of that product using our proprietary DepoFoam technology. If successful in the feasibility stage, these programs can advance to a full development contract. Currently, we are actively engaged in two feasibility assessments for third parties.

Manufacturing

We manufacture DepoCyt(e) and DepoDur for our various commercial partners. We also manufacture all of our clinical supplies of EXPAREL. We manufacture our products in two manufacturing facilities. These facilities are designated as Building 1 and Building 6 and are located within two miles of each other on two separate and distinct sites in San Diego, California. Both of our facilities are inspected regularly and approved for pharmaceutical manufacturing by the FDA, the European Medicines Agency, or the EMA, the Medicines and Healthcare Products Regulatory Agency, or the MHRA, the Drug Enforcement Administration, or the DEA, and the Environmental Protection Agency, or the EPA.

We provide DepoCyt(e) and DepoDur to our commercial partners on a set cost basis as established by each specific licensing contract. All manufacturing of products, initial product release and stability testing are conducted by us in accordance with cGMP.

Building 1 is an approximately 80,000 square foot concrete structure located on a five acre site. It was custom built as a pharmaceutical R&D and manufacturing facility in August 1995. Activities in this facility

include the manufacture of EXPAREL bulk pharmaceutical product candidate in a dedicated production line and its fill/finish into vials, the manufacture of the DepoDur bulk commercial pharmaceutical product, microbiological and quality control testing, product storage, development of analytical methods, research and development, the coordination of clinical and regulatory functions, and general administrative functions. We are renovating the dedicated EXPAREL production line to expand its capacity and expect it to be available for the FDA's pre-approval inspection in 2011. This production line is designed to meet forecasted market demands after initial launch of EXPAREL, if it is approved. We have current plans to further expand our manufacturing capacity to meet future demand.

Building 6 is located in a 17-acre pharmaceutical industrial park. It is a two story concrete masonry structure built in 1977 that we and our predecessors have leased since August 1993. We occupy approximately 22,000 square feet of the first floor. Building 6 houses the current manufacturing process for DepoCyt(e), the fill/finish of DepoCyt(e) and DepoDur into vials, a pilot plant suite for new product development and early stage clinical product production, a microbiology laboratory and miscellaneous support and maintenance areas.

Distribution of our DepoFoam products, including EXPAREL, requires cold-chain distribution, whereby a product must be maintained between specified temperatures. We have validated processes for continuous monitoring of temperature from manufacturing through delivery to the end-user. We and our partners have utilized similar cold-chain processes for DepoCyt(e) and DepoDur.

Intellectual Property and Exclusivity

We seek to protect our product candidates and our technology through a combination of patents, trade secrets, proprietary know-how, regulatory exclusivity and contractual restrictions on disclosure.

Patents and Patent Applications

We seek to protect the proprietary position of our product candidates by, among other methods, filing U.S. and foreign patent applications related to our proprietary technology, inventions and improvements that are important to the development of our business. As of September 30, 2010, there are over 15 families of patents and patent applications relating to various aspects of the DepoFoam delivery technology. Patents have been issued in numerous countries, with an emphasis on the North American, European and Japanese markets. These patents generally have a term of 20 years from the date of the nonprovisional filing unless referring to an earlier filed application. Some of our U.S. patents have a term from 17 years from the grant date. Our issued patents expire at various dates in the future, with the last currently issued patent expiring in 2019. All of these patent families are assigned solely to us, with the exception of one family relating to DepoFoam formulations of insulin-like growth factor I, which is jointly assigned to us and Novartis Vaccines and Diagnostics, Inc. (formerly Chiron Corporation). In addition, two provisional patents have been filed within the last year relating to either DepoFoam-based products or processes for making DepoFoam.

In regard to patents providing protection for EXPAREL, issued patents in the United States relating to the composition of the product candidate and methods for modifying the rate of drug release of the product candidate expire in November 2013 and January 2017, respectively. Pending U.S. applications relating to the composition of the product candidate and the process for making the product candidate, if granted, would expire in September 2018 and November 2018, respectively. In Europe, granted patents related to the composition of the product candidate expire in November 2014 and September 2018. Pending applications in Europe relating to methods of modifying the rate of drug release of the product candidate and the process for making the product candidate, if granted, would expire in January 2018 and November 2018, respectively. Recently, a provisional patent was filed relating to a new process to manufacture EXPAREL and other DepoFoam-based products. The process offers many advantages to the current process, including larger scale production and lower manufacturing costs. A strategic decision will be made within the next year as to whether this process will be kept as a trade secret (provisional patents are not publicly disclosed if a subsequent non-provisional application is not filed) or pursued as a non-provisional application. The provisional patent, if granted, could prevent others from using this process until 2031.

Trade Secrets and Proprietary Information

Trade secrets play an important role in protecting DepoFoam-based products and provide protection beyond patents and regulatory exclusivity. The scale-up and commercial manufacture of DepoFoam products involves processes, custom equipment, and in-process and release analytical techniques that we believe are unique to us. The expertise and knowledge required to understand the critical aspects of DepoFoam manufacturing steps requires knowledge of both traditional and non-traditional emulsion processing and traditional pharmaceutical production, overlaid with all of the challenges presented by aseptic manufacturing. We seek to protect our proprietary information, including our trade secrets and proprietary know-how, by requiring our employees, consultants and other advisors to execute proprietary information and confidentiality agreements upon the commencement of their employment or engagement. These agreements generally provide that all confidential information developed or made known during the course of the relationship with us be kept confidential and not be disclosed to third parties except in specific circumstances. In the case of our employees, the agreements also typically provide that all inventions resulting from work performed for us, utilizing our property or relating to our business and conceived or completed during employment shall be our exclusive property to the extent permitted by law. Where appropriate, agreements we obtain with our consultants also typically contain similar assignment of invention obligations. Further, we require confidentiality agreements from entities that receive our confidential data or materials.

Competition

The pharmaceutical and biotechnology industries are intensely competitive and subject to rapid and significant technological change. Our competitors include organizations such as major multinational pharmaceutical companies, established biotechnology companies, specialty pharmaceutical companies and generic drug companies. Many of our competitors have greater financial and other resources than we have, such as more commercial resources, larger research and development staffs and more extensive marketing and manufacturing organizations. As a result, these companies may obtain marketing approval more rapidly than we are able and may be more effective in selling and marketing their products. Smaller or early stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large, established companies.

Our competitors may succeed in developing, acquiring or licensing on an exclusive basis technologies and drug products that are more effective or less costly than EXPAREL or any other products that we are currently selling through partners or developing or that we may develop, which could render our products obsolete and noncompetitive. We expect any products that we develop and commercialize to compete on the basis of, among other things, efficacy, safety, convenience of administration and delivery, price and the availability of reimbursement from government and other third-party payers. We also expect to face competition in our efforts to identify appropriate collaborators or partners to help commercialize our product candidates in our target commercial markets.

We anticipate EXPAREL will compete with currently marketed bupivacaine and opioid analgesics such as morphine. We also expect to compete with an extended release bupivacaine product in development by Durect Corporation which has been licensed to Hospira in North America (Posidur) and to Nycomed for Europe (Optesia).

We also anticipate that EXPAREL will compete with elastomeric bag/catheter devices intended to provide bupivacaine over several days. I-FLOW Corporation (acquired by Kimberly-Clark Corporation in 2009) has marketed these medical devices in the United States since 2004.

Government Regulation

Federal Food, Drug and Cosmetic Act

Prescription drug products are subject to extensive pre- and post-market regulation by the FDA, including regulations that govern the testing, manufacturing, distribution, safety, efficacy, approval, labeling, storage, record keeping, reporting, advertising and promotion of such products under the FDCA, and its implementing regulations, and by comparable agencies and laws in foreign countries. Failure to comply with applicable FDA or other regulatory requirements may result in, among other things, warning letters, clinical holds, civil or criminal penalties, recall or seizure of products, injunction, debarment, partial or total suspension of production or withdrawal of the product from the market. The FDA must approve any new drug, including a new dosage form or new use of a previously approved drug, prior to marketing in the United States. All applications for FDA approval must contain, among other things, information relating to safety and efficacy, pharmaceutical formulation, stability, manufacturing, processing, packaging, labeling and quality control.

New Drug Applications

Generally, the FDA must approve any new drug before marketing of the drug occurs in the United States. This process generally involves:

- completion of preclinical laboratory and animal testing and formulation studies in compliance with the FDA's Good Laboratory Practice, or GLP, regulations;
- submission to the FDA of an IND application for human clinical testing, which must become effective before human clinical trials may begin in the United States;
- approval by an independent institutional review board, or IRB, at each clinical trial site before each trial may be initiated;
- performance of human clinical trials, including adequate and well-controlled clinical trials in accordance with good clinical practices, or GCP, to establish the safety and efficacy of the proposed drug product for each intended use;
- submission of an NDA to the FDA;
- satisfactory completion of an FDA pre-approval inspection of the product's manufacturing facility or facilities to assess compliance with the FDA's cGMP regulations, and to ensure that the facilities, methods and controls are adequate to preserve the drug's identity, quality and purity;
- satisfactory completion of an FDA advisory committee review, if applicable; and
- approval by the FDA of the NDA.

The preclinical and clinical testing and approval process requires substantial time, effort and financial resources, and we cannot be certain that the FDA will grant approvals for any of our product candidates on a timely basis, if at all. Preclinical tests include laboratory evaluation of product chemistry, formulation and stability, as well as studies to evaluate toxicity in animals. The results of preclinical tests, together with manufacturing information, analytical data and a proposed clinical trial protocol and other information, are submitted as part of an IND application to the FDA. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day time period, places the trial on a clinical hold because of, among other things, concerns about the conduct of the clinical trial or about exposure of human research subjects to unreasonable health risks. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. Our submission of an IND may not result in FDA authorization to commence a clinical trial. In addition, the FDA requires sponsors to amend an existing IND for each successive clinical trial conducted during product development. Further, an independent institutional review board, or IRB, covering each medical center proposing to conduct the clinical trial must review and approve the plan for any clinical trial

and informed consent information for subjects before the clinical trial commences at that center, and it must monitor the clinical trial until completed. The FDA, the IRB or the sponsor may suspend a clinical trial at any time, or from time to time, on various grounds, including a finding that the subjects or patients are being exposed to an unacceptable health risk.

Clinical trials involve the administration of the investigational new drug to human subjects under the supervision of qualified investigators in accordance with GCP requirements, which include the requirement that all research subjects provide their informed consent for their participation in any clinical trial. For purposes of an NDA submission and approval, typically, the conduct of human clinical trials occurs in the following three pre-market sequential phases, which may overlap:

- *Phase 1:* sponsors initially conduct clinical trials in a limited population to test the product candidate for safety, dose tolerance, absorption, metabolism, distribution and excretion in healthy humans or, on occasion, in patients, such as cancer patients.
- *Phase 2:* sponsors conduct clinical trials generally in a limited patient population to identify possible adverse effects and safety risks, to determine the efficacy of the product for specific targeted indications and to determine dose tolerance and optimal dosage. Sponsors may conduct multiple Phase 2 clinical trials to obtain information prior to beginning larger and more extensive Phase 3 clinical trials.
- *Phase 3:* these include expanded controlled and uncontrolled trials, including pivotal clinical trials. When Phase 2 evaluations suggest the effectiveness of a dose range of the product and acceptability of such product's safety profile, sponsors undertake Phase 3 clinical trials in larger patient populations to obtain additional information needed to evaluate the overall benefit and risk balance of the drug and to provide an adequate basis to develop labeling.

In addition, sponsors may elect to conduct, or be required by the FDA to conduct, Phase 4 clinical trials to further assess the drug's safety or effectiveness after NDA approval. Such post approval trials are typically referred to as Phase 4 clinical trials.

Sponsors submit the results of product development, preclinical studies and clinical trials to the FDA as part of an NDA. NDAs must also contain extensive information relating to the product's pharmacology, chemistry, manufacture, controls and proposed labeling, among other things. In addition, 505(b)(2) applications must contain a patent certification for each patent listed in FDA's "Orange Book" that covers the drug referenced in the application and upon which the third-party studies were conducted. For some drugs, the FDA may require risk evaluation and mitigation strategies, or REMS, which could include medication guides, physician communication plans, or restrictions on distribution and use, such as limitations on who may prescribe the drug or where it may be dispensed or administered. Upon receipt, the FDA has 60 days to determine whether the NDA is sufficiently complete to initiate a substantive review. If the FDA identifies deficiencies that would preclude substantive review, the FDA will refuse to accept the NDA and will inform the sponsor of the deficiencies that must be corrected prior to resubmission. If the FDA accepts the submission for substantive review, the FDA typically reviews the NDA in accordance with established timeframes. Under PDUFA, the FDA agrees to specific goals for NDA review time through a two-tiered classification system, Priority Review and Standard Review. A Priority Review designation is given to drugs that offer major advances in treatment, or provide a treatment where no adequate therapy exists. For a Priority Review application, the FDA aims to complete the initial review cycle in six months. Standard Review applies to all applications that are not eligible for Priority Review. The FDA aims to complete Standard Review NDAs within a ten-month timeframe. We anticipate that the FDA will grant our product candidate a Standard Review. Review processes often extend significantly beyond anticipated completion dates due to FDA requests for additional information or clarification, difficulties scheduling an advisory committee meeting, negotiations regarding REMS, or FDA workload issues. The FDA may refer the application to an advisory committee for review, evaluation and recommendation as to the application's approval. The recommendations of an advisory committee do not bind the FDA, but the FDA generally follows such recommendations.

Under PDUFA, NDA applicants must pay significant NDA user fees upon submission. In addition, manufacturers of approved prescription drug products must pay annual establishment and product user fees.

Before approving an NDA, the FDA may inspect the facility or facilities where the product is manufactured. The FDA will not approve an application unless it determines that the manufacturing processes and facilities are in compliance with cGMP requirements and are adequate to ensure consistent production of the product within required specifications. Additionally, the FDA will typically inspect one or more clinical sites to ensure compliance with GCP before approving an NDA.

After the FDA evaluates the NDA and the manufacturing facilities, it may issue an approval letter or a Complete Response Letter, or CRL, to indicate that the review cycle for an application is complete and that the application is not ready for approval. CRLs generally outline the deficiencies in the submission and may require substantial additional testing or information in order for the FDA to reconsider the application. Even if such additional information is submitted, the FDA may ultimately decide that the NDA does not satisfy the criteria for approval. Data from clinical trials are not always conclusive and the FDA may interpret data differently than we do. The FDA could also require a REMS plan to mitigate risks, which could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA also may condition approval on, among other things, changes to proposed labeling, a commitment to conduct one or more post-market studies or clinical trials and the correction of identified manufacturing deficiencies, including the development of adequate controls and specifications. If and when the deficiencies have been addressed to the FDA's satisfaction, the FDA will typically issue an approval letter. An approval letter authorizes commercial marketing of the drug with specific prescribing information for specific indications.

Section 505(b)(2) New Drug Applications

As an alternate path to FDA approval, particularly for modifications to drug products previously approved by the FDA, an applicant may submit an NDA under Section 505(b)(2) of the FDCA. Section 505(b)(2) was enacted as part of the Drug Price Competition and Patent Term Restoration Act of 1984, also known as the Hatch-Waxman Act, and permits the submission of an NDA where at least some of the information required for approval comes from clinical trials not conducted by or for the applicant and for which the applicant has not obtained a right of reference. The FDA interprets Section 505(b)(2) of the FDCA to permit the applicant to rely upon the FDA's previous findings of safety and effectiveness for an approved product. The FDA may also require companies to perform additional clinical trials or measurements to support any change from the previously approved product. The FDA may then approve the new product candidate for all or some of the label indications for which the referenced product has been approved, as well as for any new indication sought by the Section 505(b)(2) applicant.

Section 505(b)(2) applications are subject to any non-patent exclusivity period applicable to the referenced product, which may delay approval of the 505(b)(2) application even if FDA has completed its substantive review and determined the drug should be approved. In addition, 505(b)(2) applications must include patent certifications to any patents listed in the Orange Book as covering the referenced product. If the 505(b)(2) applicant seeks to obtain approval before the expiration of an applicable listed patent, the 505(b)(2) applicant must provide notice to the patent owner and NDA holder of the referenced product. If the patent owner or NDA holder bring a patent infringement lawsuit within 45 days of such notice, the 505(b)(2) application cannot be approved for 30 months or until the 505(b)(2) applicant prevails, whichever is sooner. If the 505(b)(2) applicant loses the patent infringement suit, FDA may not approve the 505(b)(2) application until the patent expires, plus any period of pediatric exclusivity.

In the NDA submissions for our product candidates, we intend to follow the development and approval pathway permitted under the FDCA that we believe will maximize the commercial opportunities for these product candidates.

Post-Approval Requirements

After approval, the NDA sponsor must comply with comprehensive requirements governing, among other things, drug listing, recordkeeping, manufacturing, marketing activities, product sampling and distribution, annual reporting and adverse event reporting. There are also extensive U.S. Drug Enforcement Agency, or DEA, regulations applicable to marketed controlled substances.

If new safety issues are identified following approval, the FDA can require the NDA sponsor to revise the approved labeling to reflect the new safety information; conduct post-market studies or clinical trials to assess the new safety information; and implement a REMS program to mitigate newly-identified risks. The FDA may also require post-approval testing, including Phase 4 studies, and surveillance programs to monitor the effect of approved products which have been commercialized, and the FDA has the authority to prevent or limit further marketing of a product based on the results of these post-marketing programs. Drugs may be marketed only for approved indications and in accordance with the provisions of the approved label. Further, if we modify a drug, including any changes in indications, labeling or manufacturing processes or facilities, the FDA may require us to submit and obtain FDA approval of a new or supplemental NDA, which may require us to develop additional data or conduct additional preclinical studies and clinical trials.

In addition, drug manufacturers and other entities involved in the manufacture and distribution of approved drugs are required to register their establishments with the FDA and state agencies, and are subject to periodic unannounced inspections by the FDA and these state agencies for compliance with cGMP requirements. Changes to the manufacturing process are strictly regulated and often require prior FDA approval before being implemented. FDA regulations also require investigation and correction of any deviations from cGMP and impose reporting and documentation requirements upon us and any third-party manufacturers that we may decide to use.

If after approval the FDA determines that the product does not meet applicable regulatory requirements or poses unacceptable safety risks, the FDA may take other regulatory actions, including initiating suspension or withdrawal of the NDA approval. Later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things:

- restrictions on the marketing or manufacturing of the product, complete withdrawal of the product from the market or product recalls;
- fines, warning letters or holds on post-approval clinical trials;
- refusal of the FDA to approve pending applications or supplements to approved applications, or suspension or revocation of product license approvals;
- product seizure or detention, or refusal to permit the import or export of products; or
- injunctions or the imposition of civil or criminal penalties.

The FDA strictly regulates marketing, labeling, advertising and promotion of products that are placed on the market. These regulations include standards and restrictions for direct-to-consumer advertising, industry-sponsored scientific and educational activities, promotional activities involving the internet, and off-label promotion. While physicians may prescribe for off label uses, manufacturers may only promote for the approved indications and in accordance with the provisions of the approved label. The FDA has very broad enforcement authority under the FDCA, and failure to abide by these regulations can result in penalties, including the issuance of a warning letter directing entities to correct deviations from FDA standards, a requirement that future advertising and promotional materials be pre-cleared by the FDA, and state and federal civil and criminal investigations and prosecutions.

In addition, the distribution of prescription pharmaceutical products is subject to the Prescription Drug Marketing Act, or PDMA, which regulates the distribution of drugs and drug samples at the federal level, and

sets minimum standards for the registration and regulation of drug distributors by the states. Both the PDMA and state laws limit the distribution of prescription pharmaceutical product samples and impose requirements to ensure accountability in distribution, including a drug pedigree which tracks the distribution of prescription drugs.

DEA Regulation

One of our marketed products, DepoDur, is regulated as a "controlled substance" as defined in the Controlled Substances Act of 1970, or CSA, which establishes registration, security, recordkeeping, reporting, storage, distribution and other requirements administered by the DEA. The DEA is concerned with the control of handlers of controlled substances, and with the equipment and raw materials used in their manufacture and packaging, in order to prevent loss and diversion into illicit channels of commerce.

The DEA regulates controlled substances as Schedule I, II, III, IV or V substances. Schedule I substances by definition have no established medicinal use, and may not be marketed or sold in the United States. A pharmaceutical product may be listed as Schedule II, III, IV or V, with Schedule II substances considered to present the highest risk of abuse and Schedule V substances the lowest relative risk of abuse among such substances. DepoDur, a sustained-release injectable morphine sulfate, is listed as a Schedule II controlled substance under the CSA. Consequently, its manufacture, shipment, storage, sale and use is subject to a high degree of regulation. For example, generally, all Schedule II drug prescriptions must be signed by a physician, physically presented to a pharmacist and may not be refilled without a new prescription.

Annual registration is required for any facility that manufactures, tests, distributes, dispenses, imports or exports any controlled substance. Except for certain defined co-incident activities, each registration is specific to the particular location, activity and controlled substance schedule. For example, separate registrations are needed for import and manufacturing, and each registration must specify which schedules of controlled substances are authorized.

The DEA typically inspects a facility to review its security measures prior to issuing a registration and, thereafter, on a periodic basis. Security requirements vary by controlled substance schedule, with the most stringent requirements applying to Schedule I and Schedule II substances. Required security measures include background checks on employees and physical control of inventory through measures such as vaults, cages, surveillance cameras and inventory reconciliations. Records must be maintained for the handling of all controlled substances, and periodic reports made to the DEA, for example distribution reports for Schedule I and II controlled substances, Schedule III substances that are narcotics, and other designated substances. Reports must also be made for thefts or significant losses of any controlled substance, and to obtain authorization to destroy any controlled substance. In addition, special authorization, notification and permit requirements apply to imports and exports.

In addition, a DEA quota system controls and limits the availability and production of controlled substances in Schedule I or II. Distributions of any Schedule I or II controlled substance must also be accomplished using special order forms, with copies provided to the DEA. Because DepoDur, a sustained-release injectable morphine sulfate, is regulated as a Schedule II controlled substance, it is subject to the DEA's production and procurement quota scheme. The DEA establishes annually an aggregate quota for how much morphine may be produced in total in the United States based on the DEA's estimate of the quantity needed to meet legitimate scientific and medicinal needs. This limited aggregate amount of morphine that the DEA allows to be produced in the United States each year is allocated among individual companies, who must submit applications annually to the DEA for individual production and procurement quotas. We must receive an annual quota from the DEA in order to produce or procure any Schedule I or Schedule II substance, including morphine sulfate for use in manufacturing DepoDur. The DEA may adjust aggregate production quotas and individual production and procurement quotas from time to time during the year, although the DEA has substantial discretion in whether or not to make such adjustments. Our quota of an active ingredient may not be sufficient to meet commercial demand or complete the

manufacture or purchase of material required for clinical trials. Any delay or refusal by the DEA in establishing our quota for controlled substances could delay or stop our clinical trials or product launches, or interrupt commercial sales of our products which could have a material adverse effect on our business, financial position and results of operations.

The DEA conducts periodic inspections of registered establishments that handle controlled substances. Failure to maintain compliance with applicable requirements, particularly as manifested in loss or diversion, can result in enforcement action that could have a material adverse effect on our business, results of operations and financial condition. The DEA may seek civil penalties, refuse to renew necessary registrations, or initiate proceedings to revoke those registrations. In certain circumstances, violations could eventuate in criminal proceedings.

Individual states also regulate controlled substances, and we are subject to such regulation by several states with respect to the manufacture and distribution of these products.

International Regulation

In addition to regulations in the United States, we are subject to a variety of foreign regulations governing clinical trials and the commercial sales and distribution of our products. Whether or not we obtain FDA approval for a product, we must obtain approval by the comparable regulatory authorities of foreign countries before we can commence clinical trials or marketing of the product in those countries. The approval process varies from country to country, and the time may be longer or shorter than that required for FDA approval. The requirements governing the conduct of clinical trials, product licensing, pricing and reimbursement vary greatly from country to country.

For example, in the EEA (which is comprised of the 27 Member States of the EU plus Norway, Iceland and Liechtenstein), medicinal products can only be commercialized after obtaining a Marketing Authorization (MA). There are two types of marketing authorizations:

- The Community MA, which is issued by the European Commission through the Centralized Procedure, based on the opinion of the Committee for Medicinal Products for Human Use (CHMP) of the EMA, and which is valid throughout the entire territory of the EEA. The Centralized Procedure is mandatory for certain types of products, such as biotechnology medicinal products, orphan medicinal products, and medicinal products containing a new active substance indicated for the treatment of AIDS, cancer, neurodegenerative disorders, diabetes, auto-immune and viral diseases. The Centralized Procedure is optional for products containing a new active substance not yet authorized in the EEA, or for products that constitute a significant therapeutic, scientific or technical innovation or which are in the interest of public health in the EU.
- National MAs, which are issued by the competent authorities of the Member States of the EEA and only cover their respective territory, are available for products not falling within the mandatory scope of the Centralized Procedure. Where a product has already been authorized for marketing in a Member State of the EEA (the Reference Member State or RMS), this National MA can be recognized in other Member States (the Concerned Member States or CMS) through the Mutual Recognition Procedure. If the product has not received a National MA in any Member State at the time of application, it can be approved simultaneously in various Member States through the Decentralized Procedure. Under the Decentralized Procedure, an identical dossier is submitted to the competent authorities of each of the Member States in which the MA is sought, one of which is selected by the applicant as the RMS. The competent authority of the RMS prepares a draft assessment report, a draft summary of the product characteristics, or SPC, and a draft of the labeling and package leaflet, which are sent to the CMS for their approval. If the CMS raise no objections, based on a potential serious risk to public health, to the assessment, SPC, labeling, or packaging proposed by the RMS, the product is subsequently granted a national MA in all the Member States (i.e. in the RMS and the CMS). If one or more CMS raise

objections based on a potential serious risk to public health, the application is referred to the Coordination group for mutual recognition and decentralized procedure for human medicinal products (the CMDh), which is composed of representatives of the EEA Member States. If a consensus cannot be reached within the CMDh the matters is referred for arbitration to the CHMP, which can reach a final decision binding on all EEA Member States. A similar process applies to disputes between the RMS and the CMS in the Mutual Recognition Procedure.

As with FDA approval we may not be able to secure regulatory approvals in Europe in a timely manner, if at all. Additionally, as in the United States, post-approval regulatory requirements, such as those regarding product manufacture, marketing, or distribution, would apply to any product that is approved in Europe, and failure to comply with such obligations could have a material adverse effect on our ability to successfully commercialize any product.

The conduct of clinical trials in the EU is governed by the EU Clinical Trials Directive (Directive 2001/20/EC of 4 April 2001, of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use). The provisions of the EU Clinical Trials Directive were required to be implemented and applied by the EEA Member States before May 2004. The EU Clinical Trials Directive harmonizes the regulatory requirements of the Member States of the EEA for the conduct of clinical trials in their respective territories. The EU Clinical Trials Directive requires sponsors of clinical trials to submit formal applications to, and to obtain the approval of, national ethics committees and regulatory authorities prior to the initiation of clinical trials.

In addition to regulations in Europe and the United States, we will be subject to a variety of foreign regulations governing clinical trials and commercial distribution of any future products.

Third Party Payer Coverage and Reimbursement

The commercial success of our product candidates will depend, in part, upon the availability of coverage and reimbursement from third-party payers at the federal, state and private levels. Government payer programs, including Medicare and Medicaid, private health care insurance companies and managed care plans may deny coverage or reimbursement for a product or therapy in whole or in part if they determine that the product or therapy is not medically appropriate or necessary. Also, third-party payers have attempted to control costs by limiting coverage and the amount of reimbursement for particular procedures or drug treatments. The United States Congress and state legislatures from time to time propose and adopt initiatives aimed at cost containment, which could impact our ability to sell our products profitably.

For example, in March 2010, President Obama signed into law the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act, which we refer to collectively as the Health Care Reform Law, a sweeping law intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms. Effective October 1, 2010, the Health Care Reform Law revises the definition of “average manufacturer price” for reporting purposes, which could increase the amount of Medicaid drug rebates owed to states by pharmaceutical manufacturers. The Health Reform Law also establishes a new Medicare Part D coverage gap discount program, in which drug manufacturers must provide 50% point-of-sale discounts on products covered under Part D beginning in 2011. Further, also beginning in 2011, the new law imposes a significant annual, nondeductible fee on companies that manufacture or import branded prescription drug products. Substantial new provisions affecting compliance have also been enacted, which may require us to modify our business practices with healthcare practitioners. We will not know the full effects of the Health Care Reform Law until applicable federal and state agencies issue regulations or guidance under the new law. Although it is too early to determine the effect of the Health Care Reform Law, the new law

appears likely to continue the pressure on pharmaceutical pricing, especially under the Medicare program, and may also increase our regulatory burdens and operating costs. Moreover, in the coming years, additional changes could be made to governmental healthcare programs that could significantly impact the success of our products.

The cost of pharmaceuticals continues to generate substantial governmental and third-party payer interest. We expect that the pharmaceutical industry will experience pricing pressures due to the trend toward managed healthcare, the increasing influence of managed care organizations and additional legislative proposals. Our results of operations could be adversely affected by current and future healthcare reforms.

Some third-party payers also require pre-approval of coverage for new or innovative devices or drug therapies before they will reimburse healthcare providers that use such therapies. While we cannot predict whether any proposed cost-containment measures will be adopted or otherwise implemented in the future, the announcement or adoption of these proposals could have a material adverse effect on our ability to obtain adequate prices for our product candidates and to operate profitably.

In international markets, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific products and therapies. There can be no assurance that our products will be considered medically reasonable and necessary for a specific indication, that our products will be considered cost-effective by third-party payers, that an adequate level or reimbursement will be available so that the third-party payers' reimbursement policies will not adversely affect our ability to sell our products profitably.

Marketing/Data Exclusivity

The FDA may grant three years of marketing exclusivity in the United States for the approval of new and supplemental NDAs, including Section 505(b)(2) NDAs, for, among other things, new indications, dosages or dosage forms of an existing drug, if new clinical investigations that were conducted or sponsored by the applicant are essential to the approval of the application. Additionally, six months of marketing exclusivity in the United States is available under Section 505A of the FDCA if, in response to a written request from the FDA, a sponsor submits and the agency accepts requested information relating to the use of the approved drug in the pediatric population. This six month pediatric exclusivity period is not a standalone exclusivity period, but rather is added to any existing patent or non-patent exclusivity period for which the drug product is eligible. Based on our clinical trial program for EXPAREL, we plan to seek three years of marketing exclusivity upon receipt of FDA approval for EXPAREL (anticipated exclusivity through at least the third quarter of 2014). We may also seek an additional period of six months exclusivity from the FDA if the FDA requests, and we successfully complete, pediatric clinical trials for EXPAREL.

Manufacturing Requirements

We must comply with applicable FDA regulations relating to FDA's cGMP regulations. The cGMP regulations include requirements relating to organization of personnel, buildings and facilities, equipment, control of components and drug product containers and closures, production and process controls, packaging and labeling controls, holding and distribution, laboratory controls, records and reports, and returned or salvaged products. The manufacturing facilities for our products must meet cGMP requirements to the satisfaction of the FDA pursuant to a pre-approval inspection before we can use them to manufacture our products. We and any third-party manufacturers are also subject to periodic inspections of facilities by the FDA and other authorities, including procedures and operations used in the testing and manufacture of our products to assess our compliance with applicable regulations. Failure to comply with these and other statutory and regulatory requirements subjects a manufacturer to possible legal or regulatory action, including warning letters, the seizure or recall of products, injunctions, consent decrees placing significant restrictions on or suspending manufacturing operations and civil and criminal penalties. Adverse experiences with the product must be reported to the FDA and could result in the imposition of market restrictions through labeling changes or in product removal. Product approvals may be withdrawn if compliance with regulatory requirements is not maintained or if problems concerning safety or efficacy of the product occur following approval.

Healthcare Fraud and Abuse Laws

We are subject to various federal, state and local laws targeting fraud and abuse in the healthcare industry. For example, in the United States, there are federal and state anti-kickback laws that prohibit the payment or receipt of kickbacks, bribes or other remuneration intended to induce the purchase or recommendation of healthcare products and services or reward past purchases or recommendations. Violations of these laws can lead to civil and criminal penalties, including fines, imprisonment and exclusion from participation in federal healthcare programs. These laws are potentially applicable to manufacturers of products regulated by the FDA, such as us, and hospitals, physicians and other potential purchasers of such products.

In particular, the federal Anti-Kickback Statute prohibits persons from knowingly and willfully soliciting, receiving, offering or providing remuneration, directly or indirectly, to induce either the referral of an individual, or the furnishing, recommending, or arranging for a good or service, for which payment may be made under a federal healthcare program such as the Medicare and Medicaid programs. The term "remuneration" is not defined in the federal Anti-Kickback Statute and has been broadly interpreted to include anything of value, including for example, gifts, discounts, the furnishing of supplies or equipment, credit arrangements, payments of cash, waivers of payments, ownership interests and providing anything at less than its fair market value. In addition, the recently enacted Health Care Reform Law, among other things, amends the intent requirement of the federal Anti-Kickback Statute and the applicable criminal healthcare fraud statutes contained within 42 U.S.C. § 1320a-7b effective March 23, 2010. Pursuant to the statutory amendment, a person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it in order to have committed a violation. In addition, the PPACA provides that the government may assert that a claim including items or services resulting from a violation of 42 U.S.C. § 1320a-7b constitutes a false or fraudulent claim for purposes of the civil False Claims Act (discussed below) or the civil monetary penalties statute, which imposes a penalty of $5000 against any person who is determined to have presented or caused to be presented claims to a federal health care program that the person knows or should know is for an item or service that was not provided as claimed or is false or fraudulent. Moreover, the lack of uniform court interpretation of the Anti-Kickback Statute makes compliance with the law difficult.

Recognizing that the Anti-Kickback Statute is broad and may technically prohibit many innocuous or beneficial arrangements within the healthcare industry, the U.S. Department of Health and Human Services' Office of Inspector General, or OIG, issued regulations in July of 1991, and periodically since that time, which the OIG refers to as "safe harbors." These safe harbor regulations set forth certain provisions which, if met in form and substance, will assure pharmaceutical companies, healthcare providers and other parties that they will not be prosecuted under the federal Anti-Kickback Statute. Additional safe harbor provisions providing similar protections have been published intermittently since 1991. Although full compliance with these provisions ensures against prosecution under the federal Anti-Kickback Statute, the failure of a transaction or arrangement to fit within a specific safe harbor does not necessarily mean that the transaction or arrangement is illegal or that prosecution under the federal Anti-Kickback Statute will be pursued. However, conduct and business arrangements that do not fully satisfy each applicable safe harbor may result in increased scrutiny by government enforcement authorities, such as the OIG or federal prosecutors. Additionally, there are certain statutory exceptions to the federal Anti-Kickback Statute, one or more of which could be used to protect a business arrangement, although we understand that OIG is of the view that an arrangement that does not meet the requirements of a safe harbor cannot satisfy the corresponding statutory exception, if any, under the federal Anti-Kickback Statute.

Additionally, many states have adopted laws similar to the federal Anti-Kickback Statute. Some of these state prohibitions apply to referral of patients for healthcare items or services reimbursed by any third-party payer, not only the Medicare and Medicaid programs, and do not contain identical safe harbors. Government officials have focused their enforcement efforts on marketing of healthcare services and products, among other activities, and have brought cases against numerous pharmaceutical and medical device companies, and certain sales and marketing personnel for allegedly offering unlawful inducements to potential or existing customers in an attempt to procure their business or reward past purchases or recommendations.

Another development affecting the healthcare industry is the increased use of the federal civil False Claims Act and, in particular, actions brought pursuant to the False Claims Act's "whistleblower" or "qui tam" provisions. The civil False Claims Act imposes liability on any person or entity who, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment by a federal healthcare program. The qui tam provisions of the False Claims Act allow a private individual to bring civil actions on behalf of the federal government alleging that the defendant has submitted a false claim to the federal government, and to share in any monetary recovery. In recent years, the number of suits brought by private individuals has increased dramatically. In addition, various states have enacted false claim laws analogous to the False Claims Act. Many of these state laws apply where a claim is submitted to any third-party payer and not merely a federal healthcare program. When an entity is determined to have violated the False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties of $5,500 to $11,000 for each separate false claim. There are many potential bases for liability under the False Claims Act. Liability arises, primarily, when an entity knowingly submits, or causes another to submit, a false claim for reimbursement to the federal government. The False Claims Act has been used to assert liability on the basis of inadequate care, kickbacks and other improper referrals, improperly reported government pricing metrics such as Best Price or Average Manufacturer Price, improper use of Medicare numbers when detailing the provider of services, improper promotion of off-label uses (i.e., uses not expressly approved by FDA in a drug's label), and allegations as to misrepresentations with respect to the services rendered. Our activities relating to the reporting of discount and rebate information and other information affecting federal, state and third-party reimbursement of our products, and the sale and marketing of our products and our service arrangements or data purchases, among other activities, may be subject to scrutiny under these laws. We are unable to predict whether we would be subject to actions under the False Claims Act or a similar state law, or the impact of such actions. However, the cost of defending such claims, as well as any sanctions imposed, could adversely affect our financial performance.

Also, the Health Insurance Portability and Accountability Act of 1996, or HIPAA, created several new federal crimes, including health care fraud, and false statements relating to health care matters. The health care fraud statute prohibits knowingly and willfully executing a scheme to defraud any health care benefit program, including private third-party payers. The false statements statute prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for health care benefits, items or services.

In addition, under California law, pharmaceutical companies must adopt a comprehensive compliance program that is in accordance with both the April 2003 Office of Inspector General Compliance Program Guidance for Pharmaceutical Manufacturers, or OIG Guidance, and the Pharmaceutical Research and Manufacturers of America Code on Interactions with Healthcare Professionals, or the PhRMA Code. The PhRMA Code seeks to promote transparency in relationships between health care professionals and the pharmaceutical industry and to ensure that pharmaceutical marketing activities comport with the highest ethical standards. The PhRMA Code contains strict limitations on certain interactions between health care professionals and the pharmaceutical industry relating to gifts, meals, entertainment and speaker programs, among others. Also, certain states, such as Massachusetts and Minnesota, have imposed restrictions on the types of interactions that pharmaceutical and medical device companies or their agents (e.g., sales representatives) may have with health care professionals, including bans or strict limitations on the provision of meals, entertainment, hospitality, travel and lodging expenses, and other financial support, including funding for continuing medical education activities.

Healthcare Privacy and Security Laws

We may be subject to, or our marketing activities may be limited by, HIPAA, and its implementing regulations, which established uniform standards for certain "covered entities" (healthcare providers, health plans and healthcare clearinghouses) governing the conduct of certain electronic healthcare transactions and protecting the security and privacy of protected health information. The American Recovery and Reinvestment Act of 2009, commonly referred to as the economic stimulus package, included sweeping expansion of HIPAA's privacy and

security standards called the Health Information Technology for Economic and Clinical Health Act, or HITECH, which became effective on February 17, 2010. Among other things, the new law makes HIPAA's privacy and security standards directly applicable to "business associates"—independent contractors or agents of covered entities that receive or obtain protected health information in connection with providing a service on behalf of a covered entity. HITECH also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney's fees and costs associated with pursuing federal civil actions.

Employees

As of September 30, 2010, we employed 75 employees, with 10 in research and development, 55 in operations, and 10 in general and administrative. All of our employees are located in the United States. None of our employees are represented by a labor union, and we consider our current employee relations to be good.

Facilities

Our research and development and manufacturing facilities are located in San Diego, California, where we occupy two facilities totaling approximately 106,000 square feet under leases expiring in July 2015. We use these facilities for research and development, manufacturing and general and administrative purposes. In addition, we maintain our executive offices, commercial and business development facility in Parsippany, New Jersey.

We believe that our manufacturing facilities are sufficient for our current needs. We intend to add new facilities or expand existing facilities as we add employees or expand our geographic markets, and we believe that suitable additional or substitute space will be available as needed to accommodate any such expansion of our operations.

Legal Proceedings

From time to time, we have been and may again become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any material litigation and we are not aware of any pending or threatened litigation against us that could have a material adverse effect on our business, operating results, financial condition or cash flows.

MANAGEMENT

Executive Officers and Directors

Our executive officers and directors, their current positions and their ages as of September 30, 2010 are set forth below:

Name	Age	Position(s)
David Stack	59	President and Chief Executive Officer, Director
James Scibetta	45	Chief Financial Officer
Gary Patou, M.D.	51	Chief Medical Officer
William Lambert, Ph.D.	51	Senior Vice President, Pharmaceutical Development
Mark Walters	55	Senior Vice President, Technical Operations
Fred Middleton (2)	61	Chairman of the Board of Directors
Luke Evnin, Ph.D. (2)	47	Director
Carl Gordon, Ph.D. (1)	45	Director
John Longenecker, Ph.D. (1) (2) (3)	63	Director
Gary Pace, Ph.D. (1) (3)	62	Director
Andreas Wicki, Ph.D.	51	Director

(1) Member of audit committee upon completion of this offering.
(2) Member of compensation committee upon completion of this offering.
(3) Member of nominating and corporate governance committee upon completion of this offering.

David Stack has served as our president and chief executive officer and as a director since November 2007. Mr. Stack has been a managing director of MPM Capital since 2005 and a managing partner of Stack Pharmaceuticals, Inc. since 1998. From 2001 to 2004, he was president and chief executive officer of The Medicines Company (NASDAQ: MDCO). Previously, Mr. Stack was president and general manager at Innovex, Inc. He was vice president, business development/marketing at Immunomedics from 1993 until 1995. Prior to that, he was with Roche Laboratories in positions of increasing responsibility from 1981 until 1993, including therapeutic world leader in infectious disease and director, business development and planning, infectious disease, oncology, and virology. He currently serves as a member of the board of directors of Bioclinica, Inc. (NASDAQ: BIOC), PepTx, Inc., and Molecular Insight Pharmaceuticals, Inc. (NASDAQ: MIPI). Mr. Stack holds a B.S. in pharmacy from Albany College of Pharmacy and a B.S. in Biology from Siena College. We believe Mr. Stack's qualifications to sit on our board of directors include his extensive experience with pharmaceutical companies, his financial expertise and his years of experience providing strategic and financial advisory services to pharmaceutical and biotechnology organizations, including evaluating business plans involving clinical trials.

James Scibetta has served as our chief financial officer since August 2008. Prior to that, Mr. Scibetta was chief financial officer of Bioenvision, Inc. (NASDAQ: BIVN) from 2006 until its acquisition by Genzyme, Inc. in 2007. From 2001 to 2006, Mr. Scibetta was executive vice president and chief financial officer of Merrimack Pharmaceuticals, Inc., and he was a member of the board of directors of Merrimack from 1998 to 2004. Mr. Scibetta formerly served as a senior investment banker at Shattuck Hammond Partners, LLC and PaineWebber Inc., providing capital acquisition, merger and acquisition, and strategic advisory services to healthcare companies. He currently serves as chairman of the board and audit committee of Nephros, Inc. (NASDAQ: NEPH). Mr. Scibetta holds a B.S. in physics from Wake Forest University, and an M.B.A. in finance from the University of Michigan. He completed executive education studies in the Harvard Business School Leadership & Strategy in Pharmaceuticals and Biotechnology program.

Gary Patou, M.D. has served as our chief medical officer since March 2009. Dr. Patou has been a managing director of MPM Capital since 2005. He has served as chief medical officer of the following MPM Capital portfolio companies: Peplin, Ltd. (ASX: PLI), Cerimon Pharmaceuticals, Inc. and Oscient Pharmaceuticals,

Inc. From 2001 to 2004, he was president of Genesoft and from 1995 to 2000, Dr. Patou worked at SmithKline Beecham Pharmaceuticals, now a unit of GlaxoSmithKline (LSE: GSK), where he held positions of increasing responsibility including senior vice president and director, project and portfolio management. From 1991 to 1995, he held increasing senior, director level positions at Vernalis (LSE:VER), formerly British Biotechnology. He currently serves as a member of the board of directors of Xenon Pharmaceuticals, Inc. Dr. Patou has held a number of academic appointments at University College & Middlesex School of Medicine in London and holds an M.D. from University College, London.

William Lambert, Ph.D. has served as our senior vice president, pharmaceutical development since the Acquisition in March 2007. Dr. Lambert has served as senior vice president pharmaceutical development since he joined SkyePharma, Inc. in January 2006. From July 1997 until January 2006, Dr. Lambert held director positions at Eisai Inc., in drug delivery technology and pharmaceutical and analytical research and development, for almost ten years. Prior to Eisai, Dr. Lambert worked at Pfizer Inc. (NYSE: PFE) and The Upjohn Company (now Pfizer Inc.) as a research investigator with increasing levels of responsibility. Dr. Lambert is on the advisory council for the National Institute for Pharmaceutical Technology and Education, a U.S. Pharmacopeia Expert Committee, and on the advisory boards of the Journal of Pharmaceutical Sciences and the Handbook of Pharmaceutical Excipients. Dr. Lambert received his Ph.D. in pharmaceutics from the University of Utah and his B.S. in pharmacy from the University of Rhode Island.

Mark Walters has served as our senior vice president, technical operations and has served in various positions with us since the Acquisition in March 2007. From January 2001 until March 2007, Mr. Walters was with SkyePharma, Inc. (LSE: SKP) serving as the vice president of business and commercial development and as director of both strategic sourcing and product management. From 1989 until 2001 Mr. Walters served in the positions of program director, project director and product director in the imaging and liquid ventilation areas for Alliance Pharmaceutical Corp. Mr. Walters received his B.A. in biology from Hamilton College.

Fred Middleton has served as our director since our inception in December 2006. Since 1987, he has been a general partner/managing director of Sanderling Ventures, a firm specializing in biomedical venture capital. From 1984 through 1986, he was the managing general partner of Morgan Stanley Ventures, an affiliate of Morgan Stanley & Co. Earlier in his career, Mr. Middleton was part of the of the founding management team at Genentech, Inc., a biotechnology company, serving there from 1978 through 1984 as vice president of finance and corporate development, and chief financial officer. During the last 30 years, he has participated in active management roles and as an investor and director in over 20 start-up biomedical companies. He currently serves as chairman of the board of Stereotaxis, Inc. (NASDAQ: STXS), a medical device company that markets magnetically guided robotic surgery systems in cardiology. He also currently serves as a board member of Cardionet, Inc. (NASDAQ: BEAT), a company that markets devices and services for wireless 24/7 real time monitoring of patients. He also serves as a director of seven other privately-held biomedical companies, engaged in the development of therapeutic and diagnostic products in healthcare. Mr. Middleton received a B.S. degree in chemistry from the Massachusetts Institute of Technology and an M.B.A. from Harvard Business School. We believe Mr. Middleton's qualifications to sit on our board of directors include his extensive experience with biopharmaceutical and biotechnology companies, his financial expertise and his years of experience providing strategic advisory services to diverse companies.

Luke Evnin, Ph.D. has served as our director since our inception in December 2006. Dr. Evnin has served as a general partner or managing director at MPM Capital since co-founding the firm in 1998. Prior to joining MPM, Dr. Evnin was at Accel Partners from 1990 to 1997 serving as general partner from 1994 to 1997. Dr. Evnin has served as director of several public companies, including Epix Medical, Inc. (NASDAQ: EPIX), Metabasis Therapeutics, Inc., Oscient Pharmaceuticals Company, Restore Medical, Inc., Otix Global, Inc. (NASDAQ: OTIX), formerly known as Sonic Innovations, Inc. and Signal Pharmaceuticals, Inc. and is currently or has been a director of several private healthcare companies in both the medical device and biopharmaceutical sectors. Dr. Evnin earned his Ph.D. in biochemistry from the University of California, San Francisco and his A.B. in molecular biology from Princeton University. We believe Dr. Evnin's qualifications to sit on our board of

directors include his extensive experience with biopharmaceutical and biotechnology companies, his financial expertise and his years of experience providing strategic advisory services to diverse companies.

Carl Gordon, Ph.D. has served as our director since our inception in December 2006. Dr. Gordon is a founding general partner of OrbiMed Advisors. Dr. Gordon is active in both private equity and small-capitalization public equity investments. Prior to founding OrbiMed Advisors, Dr. Gordon was a senior biotechnology analyst at Mehta & Isaly from 1995 to 1997. He was a fellow at The Rockefeller University from 1993 to 1995. Dr. Gordon received a Ph.D. in molecular biology from the Massachusetts Institute of Technology where his doctoral work involved studies of protein folding and assembly. He received a B.S. from Harvard College. We believe Dr. Gordon's qualifications to sit on our board of directors include his extensive experience with biopharmaceutical and biotechnology companies, his financial expertise and his years of experience providing strategic advisory services to diverse companies.

John Longenecker, Ph.D. has served as our director since July 2007. From February 2002 to January 2009, Dr. Longenecker was the president and chief executive officer of Favrille, Inc. In 1992, Dr. Longenecker joined DepoTech as senior vice president of research, development and operations and then served as president and chief operating officer from February 1998 to March 1999. Under Dr. Longenecker's leadership, DepoTech took its lead product, DepoCyt(e), from early pre-clinical research and development through to commercial launch. Following SkyePharma PLC's acquisition of DepoTech in 1999, Dr. Longenecker served as president for the U.S. operations of SkyePharma, Inc. and as a member of the executive committee for SkyePharma PLC. From 1982 to 1992, Dr. Longenecker was at Scios Inc. (Cal Bio), a biotechnology company where he served as vice-president and director of development. Dr. Longenecker was also a director of a number of Cal Bio subsidiaries during this period including Meta Bio and Karo Bio. Dr. Longenecker holds a B.S. in chemistry from Purdue University and a Ph.D. in biochemistry from The Australian National University. He was a post doctoral fellow at Stanford University from 1980 to 1982. Dr. Longenecker's experience as the chief executive officer of a public company, demonstrates his leadership capability and extensive knowledge of complex financial and operational issues that public companies face and a thorough understanding of our business and industry and business acumen to our board of directors. We believe Dr. Longenecker's extensive experience in the pharmaceutical and biotechnology industries provides valuable background and insight to our board of directors.

Gary Pace, Ph.D. has served as our director since June 2008. He is currently founder and chairman of the privately held Sova Pharmaceuticals Inc., founder, director and consultant to QRxPharma Ltd. (ASX:QRX), a Director of ResMed (NYSE:RMD) and Transition Therapeutics Inc. (CDNX:TTH). From 2002 to 2007, Dr. Pace was founder, chairman and chief executive officer of QRxPharma Ltd. and from 1995 to 2001, he was president and chief executive officer of RTP Pharma and from 2000 to 2002, Dr. Pace was chairman and chief executive officer of Waratah Pharmaceuticals Inc., a spin-off company from RTP Pharma. From 1993 to 1994, he was the founding president and chief executive officer of Transcend Therapeutics Inc. (formerly Free Radical Sciences Inc.), a biopharmaceutical company. From 1989 to 1993, he was senior vice president of Clintec International, Inc., a Baxter/Nestle joint venture and manufacturer of clinical nutritional products. Dr. Pace holds a B.S. with honors from the University of New South Wales and a Ph.D. from Massachusetts Institute of Technology. We believe Dr. Pace's qualifications to sit on our board of directors include his financial expertise and his years of experience providing strategic advisory services to complex organizations, including as a public company director.

Andreas Wicki, Ph.D. has served as our director since our inception in December 2006. Dr. Wicki is a life sciences entrepreneur and investor with over 16 years of experience in the pharmaceutical and biotechnology industries. Dr. Wicki has been chief executive officer of HBM Partners AG and HBM BioVentures AG since 2001. From 1998 to 2001, Dr. Wicki was the senior vice president of the European Analytical Operations at MDS Inc. From 1990 to 1998, he was co-owner and chief executive officer of ANAWA Laboratorien AG and Clinserve AG, two life sciences contract research companies. Dr. Wicki holds an M.Sc. and Ph.D. in chemistry and biochemistry from the University of Bern, Switzerland. He currently serves on the board of directors of Buchler GmbH, HBM BioPharma India Ltd., HBM BioVentures (Cayman) Ltd., HBM Partners Ltd. and

PharmaSwiss SA. We believe Dr. Wicki's qualifications to sit on our board of directors include his extensive experience with pharmaceutical companies, his financial expertise and his years of experience providing strategic and advisory services to pharmaceutical and biotechnology organizations.

Family Relationships

There are no family relationships among any of our directors or executive officers.

Board Composition

Our board of directors currently consists of seven members, all of whom were elected as directors pursuant to a voting agreement that we have entered into with the holders of our Series A convertible preferred stock. The voting agreement will terminate upon the completion of this offering and there will be no further contractual obligations regarding the election of our directors. Our directors hold office until their successors have been elected and qualified or until the earlier of their resignation or removal.

In accordance with the terms of our restated certificate of incorporation and bylaws that will become effective upon the completion of this offering, our board of directors will be divided into three classes, class I, class II and class III, with each class serving staggered three-year terms. Upon the expiration of the term of a class of directors, directors in that class will be eligible to be elected for a new three-year term at the annual meeting of stockholders in the year in which their term expires.

Our restated certificate of incorporation and amended and restated bylaws that will become effective upon the completion of this offering provide that the authorized number of directors may be changed only by resolution of the board of directors. Our restated certificate of incorporation and amended and restated bylaws that will become effective upon the completion of this offering also provide that our directors may be removed only for cause by the affirmative vote of the holders of at least 75% of the votes that all our stockholders would be entitled to cast in an annual election of directors, and that any vacancy on our board of directors, including a vacancy resulting from an enlargement of our board of directors, may be filled only by vote of a majority of our directors then in office.

We have no formal policy regarding board diversity. Our priority in selection of board members is identification of members who will further the interests of our stockholders through his or her established record of professional accomplishment, the ability to contribute positively to the collaborative culture among board members, knowledge of our business and understanding of the competitive landscape.

Director Independence

Under The NASDAQ Marketplace Rules, a director will only qualify as an "independent director" if, in the opinion of our board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Our board of directors has determined that each of our directors, with the exception of David Stack, is an "independent director" as defined under Rule 5605(a)(2) of The NASDAQ Marketplace Rules. In making such independence determination, the board of directors considered the relationships that each such non-employee director has with us and all other facts and circumstances that the board of directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director. In considering the independence of the directors listed above, our board of directors considered the association of our directors with the holders of more than 5% of our common stock.

Board Committees

Our board of directors has established an audit committee, a compensation committee and, upon the completion of this offering, a nominating and corporate governance committee. Each of these committees will operate under a charter that has been approved by our board of directors.

Audit Committee

Upon completion of this offering, the members of our audit committee will be John Longenecker, Gary Pace and Carl Gordon, and Dr. Gordon will chair the audit committee. Our board of directors has determined that Dr. Longenecker and Dr. Pace, two of the three directors serving on our audit committee, are independent within the meaning of The NASDAQ Marketplace Rules and Rule 10A-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. In addition, our board of directors has determined that Dr. Gordon qualifies as an audit committee financial expert within the meaning of SEC regulations and The NASDAQ Marketplace Rules. In making this determination, our board has considered the formal education and nature and scope of his previous experience, coupled with past and present service on various audit committees. Our audit committee assists our board of directors in its oversight of our accounting and financial reporting process and the audits of our financial statements.

Upon the completion of this offering, our audit committee's responsibilities will include:

- appointing, evaluating, retaining and, when necessary, terminating the engagement of our independent registered public accounting firm;
- overseeing the independence of our independent registered public accounting firm, including obtaining and reviewing reports from the firm;
- setting the compensation of our independent registered public accounting firm;
- overseeing the work of our independent registered public accounting firm, including receiving and considering reports made by our independent registered public accounting firm regarding accounting policies and procedures, financial reporting and disclosure controls;
- reviewing and discussing with management and our independent registered public accounting firm our audited financial statements and related disclosures;
- preparing the annual audit committee report required by SEC rules;
- coordinating internal control over financial reporting, disclosure controls and procedures and code of conduct;
- reviewing our policies with respect to risk assessment and risk management;
- establishing procedures related to the receipt, retention and treatment of complaints regarding accounting, internal accounting controls or auditing matters, and the confidential, anonymous submission by employees of concerns regarding accounting or auditing matters;
- reviewing our policies and procedures for reviewing and approving or ratifying related person transactions, including our related person transaction policy; and
- meeting independently with management and our independent registered public accounting firm.

All audit services to be provided to us and all non-audit services, other than de minimis non-audit services, to be provided to us by our independent registered public accounting firm must be approved in advance by our audit committee.

Compensation Committee

Upon completion of this offering, the members of our compensation committee will be Luke Evnin, John Longenecker and Fred Middleton, and Dr. Longenecker will be the chair of the compensation committee. Our compensation committee assists our board of directors in the discharge of its responsibilities relating to the compensation of our executive officers. Upon the completion of the offering, our compensation committee's responsibilities will include:

- reviewing and recommending to the board of directors our chief executive officer's compensation, and approving the compensation of our other executive officers reporting directly to our chief executive officer;

- overseeing the evaluation of our senior executives;
- overseeing, administering, reviewing and making recommendations to the board of directors with respect to our incentive compensation and equity-based plans;
- reviewing and making recommendations to the board of directors with respect to director compensation;
- reviewing and discussing with management the compensation discussion and analysis required by SEC rules; and
- preparing the annual compensation committee report required by SEC rules.

Nominating and Corporate Governance Committee

Upon completion of this offering, the members of our nominating and corporate governance committee will be John Longenecker and Gary Pace, and Dr. Pace will be the chair of the nominating and corporate governance committee. Upon the completion of the offering, the nominating and corporate governance committee's responsibilities will include:

- recommending to the board of directors the persons to be nominated for election as directors or to fill any vacancies on the board of directors, and to be appointed to each of the board's committees;
- developing and recommending to the board of directors corporate governance guidelines; and
- overseeing an annual self-evaluation of the board of directors.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves, or in the past has served, as a member of the board of directors or compensation committee, or other committee serving an equivalent function, of any entity that has one or more executive officers who serve as members of our board of directors or our compensation committee. None of the members of our compensation committee is an officer or employee of our company. Other than John Longenecker, who was the president and chief operating officer of DepoTech, the predecessor to PPI-California, none of the members of our compensation committee have ever been an officer or employee of our company.

Code of Business Conduct and Ethics

Prior to the completion of this offering, we will adopt a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Following the completion of this offering, a current copy of the code will be posted on the Corporate Governance section of our website, which is located at www.pacira.com. If we make any substantive amendments to, or grant any waivers from, the code of business conduct and ethics for any officer or director, we will disclose the nature of such amendment or waiver on our website or in a current report on Form 8-K.

Board Leadership Structure and Board's Role in Risk Oversight

The positions of our chairman of the board and chief executive officer are separated. Separating these positions allows our chief executive officer to focus on our day-to-day business, while allowing the chairman of the board to lead the board of directors in its fundamental role of providing advice to and independent oversight of management. Our board of directors recognizes the time, effort and energy that the chief executive officer must devote to his position in the current business environment, as well as the commitment required to serve as our chairman, particularly as the board of directors' oversight responsibilities continue to grow. Our board of directors also believes that this structure ensures a greater role for the independent directors in the oversight of our company and active participation of the independent directors in setting agendas and establishing priorities

and procedures for the work of our board of directors. This leadership structure also is preferred by a significant number of our stockholders. Our board of directors believes its administration of its risk oversight function has not affected its leadership structure.

Although our bylaws that will be in effect upon the completion of this offering will not require our chairman and chief executive officer positions to be separate, our board of directors believes that having separate positions is the appropriate leadership structure for us at this time and demonstrates our commitment to good corporate governance.

Risk is inherent with every business, and how well a business manages risk can ultimately determine its success. We face a number of risks, including those described under "Risk Factors." Our board of directors is actively involved in oversight of risks that could affect us. This oversight is conducted primarily by our full board of directors, which has responsibility for general oversight of risks.

Following the completion of this offering, our board of directors will satisfy this responsibility through full reports by each committee chair regarding the committee's considerations and actions, as well as through regular reports directly from officers responsible for oversight of particular risks within our company. Our board of directors believes that full and open communication between management and the board of directors is essential for effective risk management and oversight.

Director Compensation

Other than reimbursement for expenses related to attending meetings, our non-employee directors did not receive any compensation for serving as directors during the year ended December 31, 2009.

Our board of directors has approved a compensation policy for our non-employee directors that will become effective upon the the completion of this offering. This policy provides for the following compensation to our non-employee directors following the completion of this offering:

- each non-employee director is entitled to receive an annual fee from us of $35,000 and an additional $25,000 fee if the non-employee director is the chairman of our board of directors;
- the chair of our audit committee will receive an annual fee from us of $15,000 and other members of our audit committee will receive $7,500;
- the chair of our compensation committee will receive an annual fee from us of $15,000 and other members of our compensation committee will receive $7,500;
- the chair of our nominating and corporate governance committee will receive an annual fee from us of $10,000 and other members will receive $5,000; and
- each non-employee director will be entitled to an annual grant of options to purchase 25,000 shares of our common stock under our 2007 Stock Option/Issuance Plan, or the 2007 Plan, or any other equity incentive plan we may adopt in the future.

In addition, each non-employee director received an option grant to purchase 50,000 shares of our common stock, which will begin vesting upon the effective date of the registration statement for this offering. Each non-employee director that joins our board of directors following the completion of this offering will also receive an initial option grant to purchase 50,000 shares of our common stock. Fifty percent of the shares underlying each of these options will vest each year on the anniversary of the grant date, such that all of the shares underlying such options will have vested on the second anniversary of the grant date. All fees under the director compensation policy will be paid on a rolling annual basis and no per meeting fees will be paid. We will also reimburse non-employee directors for reasonable expenses incurred in connection with attending board of director and committee meetings.

EXECUTIVE COMPENSATION

This section discusses the material elements of our executive compensation policies and decisions and the most important factors relevant to an analysis of these policies and decisions. It provides qualitative information regarding the manner and context in which compensation is awarded to and earned by our executive officers named in the "Summary Compensation Table," or our "named executive officers," and is intended to place in perspective the data presented in the tables and the narrative that follows.

In preparing to become a public company, we have begun a thorough review of all elements of our executive compensation program, including the function and design of our equity incentive programs. We have begun, and we expect to continue in the coming months, to evaluate the need for revisions to our executive compensation program to ensure our program is competitive with the companies with which we compete for executive talent and is appropriate for a public company.

Overview of our Executive Compensation Process

Roles of Our Board, Chief Executive Officer and Compensation Committee in Compensation Decisions. As a private company, our chief executive officer and compensation committee have historically overseen our executive compensation program. Our compensation committee, either as a committee or together with the other independent directors, makes all compensation decisions regarding our chief executive officer. Our chief executive officer may make recommendations to the compensation committee regarding the compensation of our executive officers other than the chief executive officer, but the compensation committee either makes all compensation decisions regarding our other executive officers or makes recommendations concerning executive compensation to our board of directors, with the independent directors making such decisions. In his role, our chief executive officer has reviewed all compensation decisions relating to our executive officers other than himself. He has annually reviewed the performance of each of our other executive officers, and, based on these reviews, has made recommendations to our compensation committee regarding salary adjustments, annual incentive bonus payments and equity incentive awards for our executive officers.

Competitive Market Data and Use of Compensation Consultants . Historically, we have not formally benchmarked our executive compensation against compensation data of a peer group of companies, but rather have relied on the business judgment and experience in the pharmaceutical industry of our chief executive officer and members of our compensation committee. We have developed substantial information about compensation practices and levels at comparable companies through extensive recruiting, networking and industry research. Our compensation committee may in the future elect to engage an independent compensation consulting firm to provide advice regarding our executive compensation program and general information regarding executive compensation practices in our industry. Although the compensation committee would consider such a compensation consulting firm's advice in establishing and approving the various elements of our executive compensation program, our chief executive officer and the compensation committee would ultimately make their own decisions, or make recommendations to our board of directors, about these matters.

Objectives and Philosophy of Our Executive Compensation Program . Our primary objective with respect to executive compensation is to attract, retain and motivate highly talented individuals who have the skills and experience to successfully execute our business strategy. Our executive compensation program is designed to:

- reward the achievement of our annual and long-term operating and strategic goals;
- recognize individual contributions;
- align the interests of our executives with those of our stockholders by rewarding performance that meets or exceeds established goals, with the ultimate objective of increasing stockholder value; and
- retain and build our executive management team.

To achieve these objectives, our executive compensation program ties a portion of each executive's overall compensation to key corporate financial goals and to individual goals. We have also provided a portion of our

executive compensation in the form of option awards that vest over time, which we believe helps to retain our executive officers and aligns their interests with those of our stockholders by allowing them to participate in our long-term performance as reflected in the trading price of shares of our common stock.

Elements of Our Executive Compensation Program. The primary elements of our executive compensation program are:

- base salaries;
- annual incentive bonuses;
- company sale bonus plan;
- equity incentive awards; and
- other employee benefits.

We have not adopted any formal or informal policies or guidelines for allocating compensation among these elements.

Base Salaries. We use competitive base salaries to attract and retain qualified candidates to help us achieve our growth and performance goals. Base salaries are intended to recognize an executive officer's immediate contribution to our organization, as well as his or her experience, knowledge and responsibilities.

Historically, our chief executive officer (with respect to executive officers other than himself) and our vice president, human resources have annually evaluated and recommended adjustments to executive officer base salary levels to our compensation committee or board of directors based on factors determined to be relevant, including:

- the executive officer's skills and experience;
- the particular importance of the executive officer's position to us;
- the executive officer's individual performance;
- the executive officer's growth in his or her position; and
- base salaries for comparable positions within our company and at other companies.

Our chief executive officer's base salary has been determined by the non-management members of our board of directors, taking into account these same factors.

We have historically made annual base salary adjustments at the end of each year, with the adjustments taking effect at the beginning of the following year. In 2009, we made no adjustments to the base salaries for our chief executive officer or any of our other named executive officers.

Following the completion of this offering, our compensation committee will perform such annual evaluations, and we expect that it will consider similar factors, as well as perhaps the input of a compensation consulting firm and peer group benchmarking data, in making any adjustments to executive officer base salary levels.

Annual Incentive Bonuses. In addition to the corporate goals described below, members of management, including each of our executive officers, were assigned personal achievement goals near the beginning of fiscal 2007. For our executive officers other than our chief executive officer, these individual goals were set by our chief executive officer in collaboration with our executive management team and the individual goals for our chief executive officer were set by our board of directors, taking into account discussions with our chief executive officer.

We do not currently have a formal annual incentive bonus program. The company did pay cash bonuses based on the achievement of approved operational milestones in 2007. The 2007 bonus program was targeted at

75% based on the achievement of corporate goals and 25% based on personal achievement goals. A total pool of $57,570 was shared equally between six executives. The compensation committee did not establish a formal annual incentive bonus program in 2008 or 2009, and we have not paid any bonuses based on corporate goals or personal achievement goals in 2008 or 2009. Although our 2008 and 2009 corporate goals were informal, they were focused on the achievement of certain objectives. In 2008, the objectives were (1) developing and executing Phase 3 clinical trials for EXPAREL, (2) scaling up for post FDA approval manufacturing and (3) obtaining additional financing. In 2009, the objectives were (1) successful completion of additional Phase 3 clinical trials of EXPAREL and (2) obtaining additional financing. For 2008 and 2009, our compensation committee made the decision not to pay annual bonuses based on the need to manage expenses and allocate resources to our clinical development programs, and did not formally evaluate whether our 2008 or 2009 corporate goals had been achieved. We did not have additional individual performance goals for our executive officers in 2008 or 2009. Our compensation committee has the authority to award discretionary performance-based cash bonuses to our executive officers and certain non-executive employees. Our compensation committee considers awarding such discretionary bonuses in the event of extraordinary short-term efforts and achievements by our executives and employees, as recommended by management. No such discretionary bonuses were awarded in 2008 or 2009. We do expect that our compensation committee will establish a formal cash incentive program in the future, and that our executive officers will participate in that program.

Company Sale Bonus Plan. In March 2009, we adopted a company sale bonus plan, amended and restated in March 2010, that provides for a potential cash bonus payment to specified employees and consultants, including our executive officers, and our non-employee directors, in the event of a sale of our company. The purpose of the company sale bonus plan is to provide these employees, consultants and directors with an additional incentive in connection with a transaction that is in our and our stockholders' best interests, but which may otherwise create personal uncertainties. Under the company sale bonus plan, upon the closing of a sale transaction that satisfies specified criteria, each participant in the company sale plan would receive either a bonus in an amount equal to a portion of the sale proceeds multiplied by a specified percentage for that participant or a fixed bonus payment. As a condition to becoming participants under the plan, most of the participants, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled. The participants in the bonus plan were determined by our board of directors. This bonus plan terminates upon the completion of this offering. As a condition to becoming a participant under the Company Sale Bonus Plan, most of the participants under the plan, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled in March 2009.

Equity Incentive Compensation. We believe that our long-term performance is enhanced through equity awards. Equity awards reward executives and employees for maximizing stockholder value over time and align the interests of our employees and management with those of the stockholders. We granted stock options to our employees, including our named executive officers, in connection with their initial employment with us. In connection with the adoption of our company sale bonus plan, most of the participants under the plan, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled. Subsequent to the cancellation, in September 2010, our board of directors granted new options to all of our employees, including our executive officers, and our non-employee directors.

Equity Incentive Awards. Our equity incentive award program is the primary vehicle for offering long-term incentives to our executive officers. To date, equity incentive awards to our executive officers have been made in the form of stock options. We believe that equity incentive awards:

- provide our executive officers with a strong link to our long-term performance by enhancing their accountability for long-term decision making;
- create an ownership culture by aligning the interests of our executive officers with the creation of value for our stockholders; and
- further our goal of executive retention.

Employees who are considered important to our long-term success are eligible to receive equity incentive awards. Equity incentive awards have been granted to all of our current employees and certain of our non-employee directors.

Historically, all equity incentive awards granted to our executive officers have been approved by our board of directors, with input from our chief executive officer, our executive management team and our compensation committee. In determining the size of equity incentive awards to executive officers, our board and chief executive officer have generally considered the executive's experience, skills, level and scope of responsibilities, existing equity holdings, and comparisons to comparable positions in our company.

Our compensation committee has the authority to make equity awards to our executive officers and to administer our equity incentive plans.

We do not have any equity ownership guidelines or requirements for our executive officers.

Other Employee Benefits. We maintain broad-based benefits that are provided to all employees, including our 401(k) retirement plan, flexible spending accounts, medical and dental care plans, life insurance, short- and long-term disability policies, vacation and company holidays. Our executive officers are eligible to participate in each of these programs on the same terms as non-executive employees; however, employees at the director level and above are eligible for life insurance coverage equal to three times (rather than twice) their annual base salary.

Severance and Change of Control Arrangements. We have entered into employment agreements with David Stack, our chief executive officer, James Scibetta, our chief financial officer, Gary Patou, our chief medical officer, Mark Walters, our senior vice president, technical operations and William Lambert, our senior vice president, pharmaceutical development. Each of these agreements provides the executive officer with certain severance benefits in connection with certain terminations of the executive's employment or, in the case of Dr. Patou, consulting arrangement, both before and after a change of control of us. See "Executive Compensation—Employment Agreements, Severance and Change in Control Arrangements" below.

Risk Considerations in our Compensation Program. We do not believe that any risks arising from our employee compensation policies and practices are reasonably likely to have a material adverse effect on us. In addition, we do not believe that the mix and design of the components of our executive compensation program encourage management to assume excessive risks.

Tax Considerations. Section 162(m) of the U.S. Internal Revenue Code of 1986, as amended, which we refer to as the Code, generally disallows a tax deduction for compensation in excess of $1.0 million paid by a public company to its chief executive officer and to each other officer (other than its chief financial officer) whose compensation is required to be reported to stockholders by reason of being among the three other most highly paid executive officers. Qualifying performance-based compensation is not subject to the deduction limitation if specified requirements are met. We will periodically review the potential consequences of Section 162(m) on the various elements of our executive compensation program, and we generally intend to structure the equity incentives component of our executive compensation program, where feasible, to comply with exemptions in Section 162(m) so that the compensation remains tax deductible to us. However, our board of directors or compensation committee may, in its judgment, authorize compensation payments that do not comply with the exemptions in Section 162(m) when it believes that such payments are appropriate to attract and retain executive talent.

Section 409A of the Code applies to plans, agreements and arrangements that provide for the deferral of compensation, and imposes penalty taxes on employees if those plans, agreements and arrangements do not comply with Section 409A. We have sought to structure our executive compensation arrangements to be exempt from, or comply with, Section 409A.

Summary Compensation Table

The following table sets forth information regarding compensation earned by our chief executive officer, our chief financial officer and each of our three other most highly compensated executive officers during our fiscal year ended December 31, 2009. We refer to these individuals as our named executive officers.

Name	Principal Position	Salary ($)	All Other Compensation[1] ($)	Total ($)
David Stack	Chief Executive Officer	400,000	1,504	401,504
James Scibetta	Chief Financial Officer	270,000	1,504	271,504
Gary Patou	Consultant[2]	317,604	—	317,604
Mark Walters	Senior Vice President	250,000	1,600	251,600
William Lambert	Senior Vice President	220,000	1,483	221,483

(1) Amounts represent the value of perquisites and other personal benefits which are further detailed in the table below:

Name	Group Life Insurance ($)
David Stack	1,504
James Scibetta	1,504
Gary Patou	—
Mark Walters	1,600
William Lambert	1,483

(2) Dr. Patou, a managing director at MPM, is a consultant to us and provided the services customarily expected of a chief medical officer. Pursuant to the Services Agreement with MPM Asset Management LLC, or MPM AM and Dr. Patou, we paid a service fee of $26,467 per month to MPM AM for the services provided by Dr. Patou and MPM AM. For more information, see "Executive Compensation—Services Agreement with MPM and Gary Patou."

Grants of Plan-Based Awards in 2009

During the year ended December 31, 2009 there were no grants of plan-based awards to our named executive officers.

Outstanding Equity Awards at Year End

None of our named executive officers held any equity awards as of December 31, 2009.

Option Exercises and Stock Vested

None of our named executive officers exercised any options during the year ended December 31, 2009.

Potential Payments Upon Termination or Change of Control

The table below summarizes the potential payment to each of our named executive officers if he were to be terminated without cause on December 31, 2009.

Name	Cash Severance Payment ($)	Other Payments ($)
David Stack	400,000	—
James Scibetta	—	—
Gary Patou	—	—
Mark Walters	—	—
William Lambert	—	—

In addition, each of our named executive officers would be entitled to payments under our company sale bonus plan. See "Executive Compensation —Company Sale Bonus Plan" below.

Employment Agreements, Severance and Change in Control Arrangements

We entered into employment agreements with each of our named executive officers other than Gary Patou. The agreements with each of our named executive officers provide for "at will" employment which means we or the executive can terminate his or her employment at any time, with or without cause. Pursuant to the agreements, each of our named executive officers will be entitled to a base salary and certain benefits as previously described.

If any of our named executive officers, other than our chief executive officer, (i) is terminated for any reason other than for "cause," or (ii) terminates his or her employment for "good reason," then such executive officer will be entitled to:

- earned and accrued base salary, bonus, vacation time and other benefits;
- monthly salary continuation payments for a period of nine months from the effective date of the release required to be provided as a condition to receiving these payments;
- health insurance coverage, subject to cost sharing, for nine months following the effective date of the release required to be provided as a condition to receiving this coverage; and
- immediate vesting of the portion of the unvested options granted to him or her in connection with the agreement that would have become vested during the nine month period following the date of termination.

If our chief executive officer (i) is terminated for any reason other than for "cause," or (ii) terminates his employment for "good reason," then he will be entitled to:

- earned and accrued base salary, bonus, vacation time and other benefits;
- monthly salary continuation payments for a period of 12 months from the effective date of the release required to be provided as a condition to receiving these payments;
- health insurance coverage, subject to cost sharing, for 12 months following the effective date of the release required to be provided as a condition to receiving this coverage; and
- immediate vesting of the portion of the unvested options granted to him in connection with the agreement that would have become vested during the 12 month period.

If, within 30 days prior to, or 12 months following, a "change in control," any of our named executive officers, including our chief executive officer, (i) is terminated for any reason other than for "cause," or (ii) terminates his or her employment during the agreement term for "good reason," then, in addition to the severance payments described above, such executive officer will also be entitled to immediate vesting of the entire unvested portion of all equity compensation granted to him or her.

Our obligation to make the severance payments described above will be conditioned upon the executive officer's continued compliance with the non-competition and confidentiality obligations set forth in his or her employment agreement and the executive officer's execution of a general release of claims against us.

Under the employment agreements, "cause" means: (i) failure to substantially perform the duties owed to us after receiving written notice that sets forth in detail the specific respects in which our board of directors believes that the duties have not been substantially performed, and failure to correct the failure within 30 days after receiving a demand for substantial performance and opportunity to cure; (ii) fraud, misconduct, dishonesty, gross negligence or other acts either injurious to us or conducted with intentional disregard for our best interests; (iii) failure to follow reasonable and lawful instructions from our board of directors and failure to cure such failure after receiving 20 days advance written notice; (iv) material breach of the terms of the employment agreement or our employee proprietary information and inventions assignment agreement or any other similar agreement that may be in effect from time to time; or (v) conviction of, or pleading guilty or nolo contendere to, any misdemeanor involving dishonesty or moral turpitude or related to our business, or any felony.

Under the employment agreements, "good reason" means, without the executive officer's prior written consent: (i) any material reduction of the executive officer's then effective base salary that is not in accordance with his employment agreement or related to a cross-executive team salary reduction; (ii) any material breach by us of the executive officer's employment agreement; or (iii) a material reduction in the executive officer's responsibilities or duties, not including a mere reassignment following a change of control to a position that is substantially similar to the position held prior to the change of control; provided, however, that no such event or condition shall constitute good reason unless (x) the executive officer gives us a written notice of termination for good reason not more than 90 days after the initial existence of the condition, (y) the grounds for termination (if susceptible to correction) are not corrected by us within 30 days of our receipt of such notice and (z) the termination date occurs within one (1) year following our receipt of such notice.

Under the employment agreements, a "change of control" means (i) a merger or consolidation of either us or PPI-California into another entity in which the stockholders of us or PPI-California (as applicable) do not control 50% or more of the total voting power of the surviving entity (other than a reincorporation merger); (ii) the sale, transfer or other disposition of all or substantially all of our assets in a liquidation or dissolution; or (iii) the sale or transfer of more than 50% of our outstanding voting stock. In the case of each of the foregoing clauses (i), (ii) and (iii), a change of control as a result of a financing transaction entered into by us or PPI-California shall not constitute a change of control for purposes of these agreements.

Services Agreement with MPM and Gary Patou

In March 2009, we entered into a services agreement with Dr. Patou and MPM Asset Management LLC, or MPM AM. Pursuant to the services agreement, Dr. Gary Patou provided the services to us customarily expected of a chief medical officer. Mr. Patou's principal duties were to manage and lead our clinical team as well as oversee development of protocols and clinical trials designed to provide a path for regulatory approval of EXPAREL. In March 2010, we amended and restated the services agreement to, among other things, extend the term of the services until the deadline for filing the NDA for EXPAREL to October 15, 2010 or until either party gives 10 days prior written notice. In consideration of the services performed under the services agreement, we paid a service fee of $26,467 per month to MPM AM. In addition, we paid a bonus to Dr. Patou upon the successful completion of an NDA submission for EXPAREL.

In October 2010, we entered into a new services agreement with Dr. Patou and MPM AM. Pursuant to this services agreement, Dr. Gary Patou continues to provide the services to us customarily expected of a chief medical officer. Dr. Patou's principal duties include obtaining approval for the EXPAREL NDA in the United States, filing the EXPAREL dossier in the European Union, developing additional clinical indications for EXAPREL and assisting with our product pipeline development. Under the new services agreement, we pay a service fee of $26,467 per month to MPM AM which is adjusted based on the total amount of time Dr. Patou devotes to us during the term of the services agreement. If we terminate our consulting relationship with Dr. Patou and MPM AM other than for "cause" or the consulting relationship is terminated by Dr. Patou and MPM AM for "good reason", then MPM AM will be entitled to continuation of the then effective monthly service fee for a period of nine months following the date of termination and Dr. Patou will be entitled to immediate vesting of the portion of the unvested options that would have vested during the nine month period following the date of termination. In addition, if within 30 days prior to, or 12 months following a "change of control," the consulting relationship is terminated other than for "cause" or for "good reason", then in addition to the service payments above, Dr. Patou will also be entitled to immediate vesting of the entire unvested portion of his stock options.

Stock Option and Other Compensation Plans

2007 Stock Option/Stock Issuance Plan

In January 2007, our board of directors approved our 2007 Stock Option/Stock Issuance Plan, or the 2007 Plan. The 2007 Plan was approved by our stockholders in June 2007.

We initially reserved 7,000,000 shares of our common stock for issuance under the 2007 Plan. In April 2008, our board of directors amended the 2007 Plan to, among other things, increase the number of authorized plan shares from 7,000,000 to 11,475,000 shares of our common stock. This increase was approved by our stockholders in May 2008. In September 2010, our board of directors further amended the 2007 Plan to increase the number of authorized plan shares from 11,475,000 to 18,600,750 shares of our common stock. This increase was approved by our stockholders in October 2010.

The material terms of the 2007 Plan are summarized below. The 2007 Plan will be filed as an exhibit to the registration statement of which this prospectus is a part.

Administration. Our board of directors (or a committee of the board of directors) administers the 2007 Plan. Subject to the terms and conditions of the 2007 Plan, the administrator has the authority to select the persons to whom awards are to be made, to determine the type or types of awards to be granted to each person, determine the number of awards to grant, determine the number of shares to be subject to such awards, and the terms and conditions of such awards, and make all other determinations and decisions and to take all other actions necessary or advisable for the administration of the 2007 Plan. The plan administrator is also authorized to establish, adopt, amend or revise rules relating to administration of the 2007 Plan, subject to certain restrictions.

Eligibility. Options and restricted stock may be granted under the 2007 Plan to individuals who are then our employees, consultants or members of our board of directors or our subsidiaries. Only employees may be granted incentive stock options, or ISOs.

Awards. The 2007 Plan provides that our administrator may grant or issue stock options and restricted stock. The administrator considers each award grant subjectively, considering factors such as the individual performance of the recipient and the anticipated contribution of the recipient to the attainment of our long-term goals. Each award is set forth in a separate agreement with the person receiving the award and indicates the type, terms and conditions of the award.

- Non-qualified stock options, or NQSOs, provide for the right to purchase shares of our common stock at a specified price which may not be less than 85% of the fair market value of a share of stock on the date of grant, and usually will become exercisable (at the discretion of our compensation committee or the board of directors, in the case of awards to non-employee directors) in one or more installments after the grant date, subject to the participant's continued employment or service with us and/or subject to the satisfaction of performance targets established by our compensation committee (or the board of directors, in the case of awards to non-employee directors). NQSOs may be granted for any term specified by our compensation committee (or the board of directors, in the case of awards to non-employee directors), but the term may not exceed ten years.
- Incentive stock options, or ISOs, are designed to comply with the provisions of the Internal Revenue Code and are subject to specified restrictions contained in the Internal Revenue Code applicable to ISOs. Among such restrictions, ISOs must have an exercise price of not less than the fair market value of a share of common stock on the date of grant, may only be granted to employees, must expire within a specified period of time following the optionee's termination of employment, and must be exercised within ten years after the date of grant. In the case of an ISO granted to an individual who owns (or is deemed to own) more than 10% of the total combined voting power of all classes of our capital stock on the date of grant, the 2007 Plan provides that the exercise price must be more than 110% of the fair market value of a share of common stock on the date of grant and the ISO must expire on the fifth anniversary of the date of its grant.
- Restricted stock may be granted to participants and made subject to such restrictions as may be determined by the administrator. Restricted stock may be repurchased by us at the original purchase price or, if no cash consideration was paid for such stock, forfeited for no consideration if the conditions

or restrictions are not met, and the restricted stock may not be sold or otherwise transferred to third parties until restrictions are removed or expire. Recipients of restricted stock, unlike recipients of options, may have voting rights and may receive dividends, if any, prior to when the restrictions lapse.

Corporate Transactions. In the event of a change of control where the acquiror does not assume awards granted under the 2007 Plan, awards issued under the 2007 Plan may be subject to accelerated vesting (at the discretion of the plan administrator) such that 100% of the awards will become vested and exercisable or payable, as applicable, immediately prior to a change in control. Under the 2007 Plan, a change of control is generally defined as:

- a merger, consolidation or other reorganization approved by our stockholders, unless securities representing more than 50% of the total combined voting power of the voting securities of the successor corporation are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the persons who beneficially owned our outstanding voting securities immediately prior to such transaction;
- the acquisition, directly or indirectly by any person or related group of persons (other than us, our subsidiaries, or a person or entity that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, us), of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities possessing more than 50% of the total combined voting power of our outstanding securities pursuant to a tender or exchange offer made directly to our stockholders; or
- a stockholder-approved sale, transfer or other disposition of all or substantially all our assets in a complete liquidation or dissolution.

Amendment of the 2007 Plan. Our board of directors may amend or modify the 2007 Plan in any and all respects. However, stockholder approval of any amendment to the 2007 Plan must be obtained to the extent necessary and desirable to comply with any applicable law, regulation or stock exchange rule, or for any amendment to the 2007 Plan that increases the number of shares available under the 2007 Plan. The administrator may, with the consent of the affected option holders, cancel any or all outstanding awards under the 2007 Plan and grant new awards in substitution. The 2007 Plan will terminate on the tenth anniversary of the date of its initial approval by our board of directors.

Company Sale Bonus Plan

In March 2009, we adopted a company sale bonus plan amended and restated in March 2010, that provides for a potential cash bonus payment to specified employees and consultants, including our executive officers, and our non-employee directors, in the event of a sale of our company. The purpose of the company sale bonus plan is to provide these employees and directors with an additional incentive in connection with a transaction that is in our and our stockholders' best interests, but which may otherwise create personal uncertainties. Under the company sale bonus plan, upon the closing of a sale transaction that satisfies specified criteria, each participant in the company sale bonus plan would receive either a bonus in an amount equal to a portion of the sale proceeds multiplied by a specified percentage for that participant or a fixed bonus payment. The participants in the bonus plan were determined by our board of directors. This bonus plan terminates upon the completion of this offering. As a condition to becoming participants under the plan, most of the participants, including all of our executive officers and non-employee directors, agreed to have their existing option grants cancelled.

401(k) Retirement Plan

We maintain a 401(k) retirement plan that is intended to be a tax-qualified defined contribution plan under Section 401(k) of the Internal Revenue Code. In general, all of our employees are eligible to participate, beginning on the first day of the month following commencement of their employment. The 401(k) plan includes

a salary deferral arrangement pursuant to which participants may elect to reduce their current compensation by up to the statutorily prescribed limit, equal to $16,500 in 2009, and have the amount of the reduction contributed to the 401(k) plan.

Limitation of Liability and Indemnification

As permitted by Delaware law, our restated certificate of incorporation and restated bylaws, which will become effective upon the completion of this offering, limit or eliminate the personal liability of our directors. Our restated certificate of incorporation limits the liability of directors to the maximum extent permitted by Delaware law. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for breaches of their fiduciary duties as directors, except liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any unlawful payments related to dividends or unlawful stock repurchases, redemptions or other distributions; or
- any transaction from which the director derived an improper personal benefit.

These limitations do not apply to liabilities arising under federal securities laws and do not affect the availability of equitable remedies, including injunctive relief or rescission. If Delaware law is amended to authorize the further elimination or limiting of director liability, then the liability of our directors will be eliminated or limited to the fullest extent permitted by Delaware law as so amended.

As permitted by Delaware law, our restated certificate of incorporation and restated bylaws that will become effective upon the completion of this offering also provide that:

- we will indemnify our directors and officers to the fullest extent permitted by law;
- we may indemnify our other employees and other agents to the same extent that we indemnify our officers and directors, unless otherwise determined by the board of directors; and
- we will advance expenses to our directors and executive officers in connection with legal proceedings to the fullest extent permitted by law.

The indemnification provisions contained in our restated certificate of incorporation and restated bylaws that will become effective upon the completion of this offering are not exclusive.

In addition to the indemnification provided for in our restated certificate of incorporation and restated bylaws, prior to completion of this offering we intend to enter into indemnification agreements with each of our directors and executive officers. Each indemnification agreement will provide that we will indemnify the director or executive officer to the fullest extent permitted by law for claims arising in his or her capacity as our director, officer, employee or agent, provided that he or she acted in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, our best interests and, with respect to any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful. In the event that we do not assume the defense of a claim against a director or executive officer, we are required to advance his or her expenses in connection with his or her defense, provided that he or she undertakes to repay all amounts advanced if it is ultimately determined that he or she is not entitled to be indemnified by us.

We believe that these provisions and agreements are necessary to attract and retain qualified persons as directors and executive officers. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling our company pursuant to the foregoing provisions, the opinion of the SEC is that such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

In addition, we maintain standard policies of insurance under which coverage is provided to our directors and officers against losses rising from claims made by reason of breach of duty or other wrongful act, and to us with respect to payments which may be made by us to such directors and officers pursuant to the above indemnification provisions or otherwise as a matter of law.

Rule 10b5-1 Sales Plans

Prior to the completion of this offering, our directors and executive officers may adopt written plans, known as Rule 10b5-1 plans, in which they will contract with a broker to buy or sell shares of our common stock on a periodic basis. Under a Rule 10b5-1 plan, a broker executes trades pursuant to parameters established by the director or executive officer when entering into the plan, without further direction from the director or executive officer. The director or executive officer may amend or terminate the plan in some circumstances. Our directors and executive officers may also buy or sell additional shares outside of a Rule 10b5-1 plan when they are not in possession of material, nonpublic information.

RELATED PERSON TRANSACTIONS

The following is a description of transactions since inception to which we have been a party, in which the amount involved in the transaction exceeds $120,000, and in which any of our directors, executive officers or beneficial owners of more than 5% of our voting securities, or affiliates or immediate family members of any of our directors, executive officers or beneficial owners of more than 5% of our voting securities, had or will have a direct or indirect material interest. We believe the terms obtained or consideration that we paid or received, as applicable, in connection with the transactions described below were comparable to terms available or the amounts that would be paid or received, as applicable, from unrelated third parties.

Debt Financings

2009 Convertible Note Financing

In January 2009, we sold $10.63 million in aggregate principal amount of convertible promissory notes, or the 2009 Convertible Notes, in a private placement to certain of our existing investors. In connection with the issuance of the 2009 Convertible Notes, we issued warrants to purchase an aggregate of 1,700,000 shares of our common stock with an exercise price of $0.25 per share. The 2009 Convertible Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest on the 2009 Convertible Notes was due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date was extended to the earliest of (1) a sale of us, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the 2009 Convertible Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Convertible Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009 Secured Notes and the 2010 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2009 Secured Notes and 2010 Secured Notes.

We currently expect that all principal and interest due under the 2009 Convertible Notes will be converted into 9,374,446 shares of our common stock upon completion of this offering.

Purchasers of the 2009 Convertible Notes included certain holders of more than 5% of our capital stock, or entities affiliated with them. The following table sets forth the aggregate principal amount of 2009 Convertible Notes purchased by each such holder and the warrants received in connection with the purchase of the 2009 Convertible Notes.

Purchaser	Aggregate Principal Amount of Notes	Number of Warrant Shares
HBM BioVentures	$ 2,500,000	400,000
Entities affiliated with MPM Capital	2,500,000	399,999
Entities affiliated with OrbiMed Advisors	2,500,000	400,000
Entities affiliated with Sanderling Ventures	2,500,000	400,001

2009 Secured Debt Financing

In June 2009, we entered into an agreement with certain of our existing investors to issue $10.63 million in aggregate principal amount of secured notes, or the 2009 Secured Notes. To secure the performance of our obligations under the purchase agreement for the 2009 Secured Notes, we granted a security interest in substantially all of our assets, including our intellectual property assets, except the assets that secure our obligations under our agreement with Paul Capital. On April 30, 2010, the holders of the 2009 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009

Convertible Notes and the 2010 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2009 Secured Notes, and the 2009 Secured Notes agreed to share payments equally with the holders of the 2010 Secured Notes.

The 2009 Secured Notes have an interest rate of 12% per year and all principal and accrued and unpaid interest on the 2009 Secured Notes was due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date was further extended to the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated.

We currently expect that all principal and interest due under the 2009 Secured Notes will be converted into 9,979,369 shares of our common stock upon completion of this offering. Purchasers of the 2009 Secured Notes included certain holders of more than 5% of our capital stock, or entities affiliated with them. The following table sets forth the amount of notes purchased by each such holder and the date of purchase:

Date of Purchase	Purchaser	Aggregate Principal Amount of Notes Purchased on Such Date
August 4, 2009	Entities affiliated with HBM BioVentures	$ 988,235
	Entities affiliated with MPM Capital	988,235
	Entities affiliated with OrbiMed Advisors	988,235
	Entities affiliated with Sanderling Ventures	988,235
September 1, 2009	Entities affiliated with HBM BioVentures	988,235
	Entities affiliated with MPM Capital	988,235
	Entities affiliated with OrbiMed Advisors	988,235
	Entities affiliated with Sanderling Ventures	988,235
October 22, 2009	Entities affiliated with HBM BioVentures	523,529
	Entities affiliated with MPM Capital	523,529
	Entities affiliated with OrbiMed Advisors	523,529
	Entities affiliated with Sanderling Ventures	523,529

2010 Secured Debt Financing

In March 2010, we entered into an agreement with certain of our existing investors to issue $15.0 million in aggregate principal amount of secured notes, or the 2010 Secured Notes, in a private placement and the investors purchased the entire $15.0 million of 2010 Secured Notes. To secure the performance of our obligations under the purchase agreement for the 2010 Secured Notes, we granted a subordinated security interest in substantially all of our assets, including our intellectual property assets, to the investors. On April 30, 2010, the holders of the 2010 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2010 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009 Convertible Notes and the 2009 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2010 Secured Notes, and the 2010 Secured Notes agreed to share payments equally with the holders of the 2009 Secured Notes.

The 2010 Secured Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest on the 2010 Secured Notes was due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date was further extended to the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated.

We currently expect that all principal and interest due under the 2010 Secured Notes will be converted into 12,439,302 shares of our common stock upon completion of this offering. Purchasers of the 2010 Secured Notes included certain holders of more than 5% of our capital stock, or entities affiliated with them. The following table sets forth the amount of notes purchased by each such holder and the date of purchase.

Date of Purchase	Purchaser	Aggregate Principal Amount of Notes Purchased on Such Date
March 10, 2010	Entities affiliated with HBM BioVentures	$ 1,875,000
	Entities affiliated with MPM Capital	1,875,000
	Entities affiliated with OrbiMed Advisors	1,875,000
	Entities affiliated with Sanderling Ventures	1,875,000
June 30, 2010	Entities affiliated with HBM BioVentures	937,500
	Entities affiliated with MPM Capital	937,500
	Entities affiliated with OrbiMed Advisors	937,500
	Entities affiliated with Sanderling Ventures	937,500
September 1, 2010	Entities affiliated with HBM BioVentures	937,500
	Entities affiliated with MPM Capital	937,500
	Entities affiliated with OrbiMed Advisors	937,500
	Entities affiliated with Sanderling Ventures	937,500

HBM Term Loan

On April 30, 2010, we entered into a subordinated secured note purchase agreement with entities affiliated with HBM BioVentures, or HBM, to issue $3.75 million in aggregate principal amount of secured notes, or the HBM Secured Notes, in a private placement. HBM purchased the entire $3.75 million of the HBM Secured Notes. To secure the performance of our obligations under the purchase agreement for the HBM Secured Notes, we granted a subordinated security interest in substantially all of our assets, including our intellectual property assets, other than the assets that secure our obligations under the Amended and Restated Royalty Interests Assignment Agreement. The HBM Secured Notes carry an interest rate of approximately 10% per year. In addition, the HBM Secured Notes require a final payment fee if they are prepaid prior to the maturity date. The maturity date of the HBM Secured Notes is the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the HBM Secured Notes entered into a subordination agreement with GECC pursuant to which the HBM Secured Notes were subordinated to the GECC Credit Facility.

We currently expect that all principal and interest due under the HBM Secured Notes will be converted into 3,319,598 shares of our common stock upon completion of this offering. Purchasers of the HBM Secured Notes included certain holders of more than 5% of our capital stock, or entities affiliated with them.

Stockholder Guaranty under GECC Credit Facility

On April 30, 2010, we entered into an $11.25 million credit facility with General Electric Capital Corporation, as both agent and the sole lender, or the GECC Credit Facility. We borrowed under the GECC Credit Facility an aggregate principal amount of $11.25 million.

The GECC Credit Facility is guaranteed by MPM Capital, Sanderling Ventures and Orbimed Advisors, and entities affiliated with them, holders of more than 5% of our voting securities, on a several and not joint basis, which guarantee is limited to each such stockholder's pro rata portion of the outstanding principal and accrued and unpaid interest under the GECC Credit Facility, but in no event to exceed $11.25 million in the aggregate. The obligations of these stockholders under the guarantee is not triggered until the earlier to occur of (i) 30 days after written notice from the agent that the obligations under the GECC Credit Facility have been accelerated, and (ii) the occurrence of a bankruptcy or insolvency event with respect to the borrower under the GECC Credit Facility, us or any of the guarantors. The guarantee by these stockholders of the GECC Credit Facility also includes covenants that require each such investor to maintain at all times unfunded commitments from its fund

investors in an amount equal to at least one and one-half times the maximum amount which the stockholder may be obligated for under the stockholder guarantee, and also includes certain control requirements with respect to such stockholders.

Preferred Stock Issuances

In March 2007, we entered into a Series A Preferred Stock Purchase Agreement pursuant to which we issued and sold to investors an aggregate of 68,000,000 shares of Series A convertible preferred stock in four separate closings held in March 2007, February 2008, July 2008 and October 2008, at a purchase price of $1.25 per share. The aggregate consideration for the Series A convertible preferred stock was $85 million in cash.

The following table sets forth the shares of our Series A convertible preferred stock issued to our directors, officers or holders of more than 5% of our common stock and their affiliates:

Investor	Shares of Series A Convertible Preferred Stock
Entities affiliated with MPM Capital (1)	16,000,000
Entities affiliated with Sanderling Ventures (2)	16,000,000
Entities affiliated with OrbiMed Advisors (3)	16,000,000
Entities affiliated with HBM BioVentures (4)	16,000,000

(1) Consists of (i) 14,995,856 shares of Series A convertible preferred stock held by MPM BioVentures IV-QP, L.P., (ii) 577,727 shares of Series A convertible preferred stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, and (iii) 426,417 shares of Series A convertible preferred stock held by MPM Asset Management Investors BV4 LLC. Dr. Patou and Dr. Evnin are members of MPM BioVentures IV LLC, the direct or indirect general partner or manager of the above mentioned funds, which has the ultimate voting and investment power over shares of record held by MPM BioVentures IV-QP, L.P., MPM BioVentures IV GmbH & Co. Beteiligungs KG, and MPM Asset Management Investors BV4 LLC and they may be deemed to have voting and investment power over shares held of record by MPM BioVentures IV-QP, L.P., MPM BioVentures IV GmbH & Co. Beteiligungs KG, and MPM Asset Management Investors BV4 LLC. Dr. Patou, Dr. Evnin and Mr. Stack each disclaim beneficial ownership over the shares held by MPM Capital and its affiliates, except to the extent of their pecuniary interest therein.

(2) Consists of (i) 7,921,950 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI, L.P.; (ii) 267,493 shares of Series A convertible preferred stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (iii) 318,716 shares of Series A convertible preferred stock held by Sanderling VI Limited Partnership, (iv) 7,331,841 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI Co-Investment Fund, L.P., and (v) 160,000 shares of Series A convertible preferred stock held by Sanderling Ventures Management VI. Mr. Middleton is a managing director of Middleton, McNeil, Mills & Associates VI, LLC, which has the ultimate voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. and he may be deemed to have voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. Mr. Middleton is the owner of Sanderling Ventures Management VI and he may be deemed to have voting and investment power over shares held of record by Sanderling Ventures Management VI. Mr. Middleton disclaims beneficial ownership over the shares held by Sanderling Ventures and its affiliates, except to the extent of his pecuniary interest therein.

(3) Consists of (i) 15,849,056 shares of Series A convertible preferred stock held by OrbiMed Private Investments III, LP, and (ii) 150,944 shares of Series A convertible preferred stock held by OrbiMed Associates III, LP. Dr. Gordon is a member of OrbiMed Advisors LLC, which has the ultimate voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP and he may be deemed to have voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP. Dr. Gordon disclaims beneficial ownership over the shares held by OrbiMed Advisors and its affiliates, except to the extent of his pecuniary interest therein.

(4) Consists of 16,000,000 shares of Series A convertible preferred stock held by HBM BioVentures (Cayman) Ltd. Dr. Wicki disclaims beneficial ownership over the shares held by HBM BioVentures and its affiliates, except to the extent of his pecuniary interest therein.

Common Stock Issuances

In connection with our formation, we issued an aggregate of 5,000,000 shares of common stock for total aggregate consideration of $50,000. The following table sets forth the aggregate number of shares of common stock acquired by our directors, executive officers or holders of more than 5% of our common stock and their affiliates:

Investor	Shares of Common Stock
Entities affiliated with Sanderling Ventures (1)	2,000,000
Entities affiliated with MPM Capital (2)	1,000,000
Entities affiliated with OrbiMed Advisors (3)	1,000,000
Entities affiliated with HBM BioVenture (4)	1,000,000

(1) Consists of (i) 1,352,985 shares of common stock held by Sanderling Venture Partners VI, L.P.; (ii) 21,453 shares of common stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (iii) 25,562 shares of common stock held by Sanderling VI Limited Partnership, and (iv) 600,000 shares of common stock held by Sanderling Ventures Management VI. Mr. Middleton is a managing director of Middleton, McNeil, Mills & Associates VI, LLC, which has the ultimate voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, and Sanderling VI Limited Partnership and he may be deemed to have voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, and Sanderling VI Limited Partnership. Mr. Middleton is the owner of Sanderling Ventures Management VI and he may be deemed to have voting and investment power over shares held of record by Sanderling Ventures Management VI. Mr. Middleton disclaims beneficial ownership over the shares held by Sanderling Ventures and its affiliates, except to the extent of his pecuniary interest therein.

(2) Consists of (i) 937,241 shares of common stock held by MPM BioVentures IV-QP, L.P., (ii) 36,108 shares of common stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, and (iii) 26,651 shares of common stock held by MPM Asset Management Investors BV4 LLC. Dr. Patou and Dr. Evnin are members of MPM BioVentures IV LLC, the direct or indirect general partner or manager of the above mentioned funds, which has the ultimate voting and investment power over shares of record held by MPM BioVentures IV-QP, L.P., MPM BioVentures IV GmbH & Co. Beteiligungs KG, and MPM Asset Management Investors BV4 LLC and they may be deemed to have voting and investment power over shares held of record by MPM BioVentures IV-QP, L.P., MPM BioVentures IV GmbH & Co. Beteiligungs KG, and MPM Asset Management Investors BV4 LLC. Dr. Patou, Dr. Evnin and Mr. Stack each disclaim beneficial ownership over the shares held by MPM Capital and its affiliates, except to the extent of their pecuniary interest therein.

(3) Consists of (i) 990,566 shares of common stock held by OrbiMed Private Investments III, LP, and (ii) 9,434 shares of common stock held by OrbiMed Associates III, LP. Dr. Gordon is a member of OrbiMed Advisors LLC, which has the ultimate voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP and he may be deemed to have voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP. Dr. Gordon disclaims beneficial ownership over the shares held by OrbiMed Advisors and its affiliates, except to the extent of his pecuniary interest therein.

(4) Consists of 1,000,000 shares of common stock held by HBM BioVentures (Cayman) Ltd. Dr. Wicki disclaims beneficial ownership over the shares held by HBM BioVentures and its affiliates, except to the extent of his pecuniary interest therein.

Investors' Rights Agreement

In March 2007, we entered into an investors' rights agreement with purchasers of our Series A convertible preferred stock. This agreement provides the purchasers of our Series A convertible preferred stock with certain rights relating to the registration of their shares of common stock issuable upon conversion of their Series A convertible preferred stock, a right of first offer to purchase future securities sold by us and certain additional covenants made by us. Except for the registration rights, all rights under this agreement will terminate upon completion of this offering. The registration rights will continue following the completion of this offering and will terminate five years following the completion of this offering, or for any particular holder with registration rights, at such time following the completion of this offering when all securities held by that stockholder may be sold pursuant to Rule 144 under the Securities Act. All holders of our Series A convertible preferred stock are parties to this agreement. See "Description of Capital Stock—Registration Rights" for additional information.

Voting Agreement

In March 2007, we entered into a voting agreement with certain of our stockholders. Pursuant to the voting agreement the following directors were each elected to serve as members on our board of directors and, as of the date of this prospectus, continue to so serve: Luke Evnin, Carl Gordon, John Longenecker, Fred Middleton, Gary Pace, David Stack and Andreas Wicki. Pursuant to the voting agreement, Mr. Stack, as our chief executive officer, was initially selected to serve on our board of directors as a "CEO director." Messrs. Evnin, Gordon, Middleton, and Wicki were initially selected to serve on our board of directors as representatives of our Series A convertible preferred stockholders, as designated by MPM Capital, OrbiMed Advisors, Sanderling Ventures and HBM BioVentures, respectively.

The voting agreement will terminate upon completion of this offering, and members previously elected to our board of directors pursuant to this agreement will continue to serve as directors until they resign, are removed or their successors are duly elected by holders of our common stock. The composition of our board of directors after this offering is described in more detail under "Management—Board Composition."

Employment Agreements

We entered into employment agreements with the following executive officers and key employees: David Stack, our chief executive officer, James Scibetta, our chief financial officer, Mark Walters, our senior vice president, technical operations, William Lambert, our senior vice president, pharmaceutical development. For further information, see "Executive Compensation—Employment Agreements, Severance and Change in Control Arrangements."

Services Agreements

We entered into a services agreement with Gary Patou, our chief medical officer, and MPM AM. For further information, see "Executive Compensation —Services Agreement with MPM and Gary Patou."

In addition to the amounts paid to Gary Patou, MPM AM provides clinical management and subscription services to us. We incurred aggregate expenses $27,293 to MPM AM since January 1, 2009.

In February 2008, we entered into a services agreement with Stack Pharmaceuticals, Inc., or SPI, an entity controlled by David Stack, our chief executive officer. Pursuant to the agreement, SPI provided us with the use of SPI's office facilities which included the use of office space for our employees, office furnishings, phone system, internet connections, printers and other related office amenities such as conference rooms. The office facilities are located at 5 Sylvan Way, Parsippany, New Jersey. Pursuant to the agreement, we paid SPI $10,500 each month during the term of the services agreement. The term of the agreement was one year and was renewable upon consent of both parties and the agreement may be cancelled with 60 days written notice by either party. In February 2009, we renewed the agreement on a month-to-month basis.

In August 2010, we entered into a new services agreement with SPI that replaced the agreement that we entered into in February 2008. Pursuant to the new agreement, SPI provides us with the use of SPI's office facilities which includes the use of office space for our employees, office furnishings, phone system, internet connections, printers and other related office amenities such as conference rooms. In addition, SPI provides consulting services and commercial leadership related to EXPAREL regarding the development of strategic plans and analyses for the commercialization of EXPAREL, support in the development of documents, data and materials for investor and commercial partner presentations and documents, and commercial leadership in support of our website. SPI provides these services from time to time as we request from August 2010 through December 2010. We pay SPI $2,500 for each day of services provided by SPI up to a maximum of five days per week. We also reimburse SPI for travel expenses incurred by SPI personnel.

In addition, during 2008, 2009 and 2010, upon our request, SPI performed various projects, all of which have been completed by SPI. These projects included a business analysis and commercial recommendation for our DepoDur product, a market research project related to the development of a DepoMethotrexate product, market research and forecasting in support of clinical development of EXPAREL for the potential additional indications of nerve block and epidural administration and reimbursement for access to Datamonitor reports for commercial analysis and partnering discussions regarding EXPAREL.

Since January 1, 2009, we have paid SPI an aggregate of $367,213 for the above services provided by SPI.

In April 2010, we signed a statement of work for a feasibility study with Rhythm Pharmaceuticals, Inc. We earned contract revenue of approximately $250,000 from this statement of work during 2010. MPM Capital and its affiliates are holders of more than 5% of our capital stock. We have been informed that MPM Capital and its affiliates are holders of more than 10% of the capital stock of Rhythm Pharmaceuticals, Inc. and a managing director of MPM Capital is a member of the board of directors of Rhythm Pharmaceuticals, Inc.

Indemnification of Officers and Directors

Our amended and restated certificate of incorporation and amended and restated bylaws, which will become effective upon the completion of this offering, will provide that we will indemnify each of our directors and officers to the fullest extent permitted by the Delaware General Corporation Law. Further, we intend to enter into indemnification agreements with each of our directors and officers, and we have purchased a policy of directors' and officers' liability insurance that insures our directors and officers against the cost of defense, settlement or payment of a judgment under certain circumstances. For further information, see "Executive Compensation—Limitation of Liability and Indemnification."

Policies and Procedures for Related Person Transactions

In connection with this offering, our board of directors will adopt a written related person transaction policy to set forth the policies and procedures for the review and approval or ratification of related person transactions. This policy will cover any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships in which we were or are to be a participant, the amount involved exceeds $120,000, and a related person had or will have a direct or indirect material interest, including, without limitation, purchases of goods or services by or from the related person or entities in which the related person has a material interest, indebtedness, guarantees of indebtedness, and employment by us of a related person.

Any related person transaction proposed to be entered into by us will be required to be reported to our chief financial officer and will be reviewed and approved by the audit committee in accordance with the terms of the policy, prior to effectiveness or consummation of the transaction, whenever practicable. If our chief financial officer determines that advance approval of a related person transaction is not practicable under the circumstances, the audit committee will review and, in its discretion, may ratify the related person transaction at the next meeting of the audit committee, or at the next meeting following the date that the related person transaction comes to the attention of our chief financial officer. Our chief financial officer, however, may present a related person transaction arising in the time period between meetings of the audit committee to the chair of the audit committee, who will review and may approve the related person transaction, subject to ratification by the audit committee at the next meeting of the audit committee.

In addition, any related person transaction previously approved by the audit committee or otherwise already existing that is ongoing in nature will be reviewed by the audit committee annually to ensure that such related person transaction has been conducted in accordance with the previous approval granted by the audit committee, if any, and that all required disclosures regarding the related person transaction are made.

Transactions involving compensation of executive officers will be reviewed and approved by the compensation committee in the manner specified in the charter of the compensation committee.

A related person transaction reviewed under this policy will be considered approved or ratified if it is authorized by the audit committee in accordance with the standards set forth in our related person transaction policy after full disclosure of the related person's interests in the transaction. As appropriate for the circumstances, the audit committee will review and consider:

- the related person's interest in the related person transaction;
- the approximate dollar value of the amount involved in the related person transaction;
- the approximate dollar value of the amount of the related person's interest in the transaction without regard to the amount of any profit or loss;
- whether the transaction was undertaken in the ordinary course of business;
- whether the transaction with the related person is proposed to be, or was, entered into on terms no less favorable to us than terms that could have been reached with an unrelated third party;
- the purpose of, and the potential benefits to us of, the transaction; and
- any other information regarding the related person transaction or the related person in the context of the proposed transaction that would be material to stockholders in light of the circumstances of the particular transaction.

The audit committee will review all relevant information available to it about the related person transaction. The audit committee may approve or ratify the related person transaction only if the audit committee determines that, under all of the circumstances, the transaction is in, or is not inconsistent with, our best interests. The audit committee may, in its sole discretion, impose conditions as it deems appropriate on us or the related person in connection with approval of the related person transaction.

PRINCIPAL STOCKHOLDERS

The following table sets forth information regarding the beneficial ownership of our common stock as of September 30, 2010, by:

- each of our directors;
- each of our named executive officers;
- each person, or group of affiliated persons, who is known by us to beneficially own more than 5% of our common stock; and
- all of our directors and executive officers as a group.

Beneficial ownership is determined in accordance with SEC rules. These rules generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities and include shares of common stock issuable upon the exercise of stock options and warrants that are immediately exercisable or exercisable within 60 days after September 30, 2010. Except as otherwise indicated, all of the shares reflected in the table are shares of common stock and all persons listed below have sole voting and investment power with respect to the shares beneficially owned by them, subject to applicable community property laws. The information is not necessarily indicative of beneficial ownership for any other purpose.

Percentage ownership calculations for beneficial ownership prior to this offering are based on 109,284,470 shares outstanding as of September 30, 2010, assuming the conversion of all of the outstanding Series A convertible preferred stock and assuming the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest outstanding under our secured and unsecured notes held by certain of our investors into common stock upon completion of this offering. Percentage ownership calculations for beneficial ownership after this offering also include the shares we are offering hereby. Except as otherwise indicated in the table below, addresses of named beneficial owners are in care of Pacira Pharmaceuticals, Inc., 5 Sylvan Way, Suite 125, Parsippany, New Jersey 07054.

In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we deemed shares of common stock subject to options and warrants held by that person that are currently exercisable or exercisable within 60 days of September 30, 2010 to be outstanding. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person. Beneficial ownership representing less than 1% is denoted with an asterisk (*).

Name and Address of Beneficial Owner	Number of Shares Beneficially Owned	Percentage Before the Offering	Percentage After the Offering
5% Stockholders			
HBM BioVentures (Cayman) Ltd. (1)	28,383,267	25.9%	
MPM Capital and its affiliates (2)	25,063,663	22.9%	
OrbiMed Advisors and its affiliates (3)	25,063,668	22.9%	
Sanderling Ventures and its affiliates (4).	26,063,658	23.8%	
Officers and Directors			
David Stack (5)	1,583,333	1.4%	
James Scibetta (6)	433,333	*	
Gary Patou (7)	343,958	*	
William Lambert (8)	316,667	*	
Mark Walters (9)	316,667	*	
Luke Evnin (10)	25,063,663	22.9%	
Carl Gordon (11)	25,063,668	22.9%	
John Longenecker (12)	63,333	*	
Fred Middleton (13).	25,063,658	23.8%	
Gary Pace (14)	43,333	*	
Andreas Wicki (15)	28,383,267	25.9%	
All current executive officers and directors as a group (11 persons)	107,674,880	94.9%	

(1) Consists of (i) 16,000,000 shares of Series A convertible preferred stock held by HBM BioVentures (Cayman) Ltd., (ii) 1,000,000 shares of common stock held by HBM BioVentures (Cayman) Ltd., (iii) 400,000 shares of common stock issuable upon exercise of warrants held by HBM BioVentures (Cayman) Ltd., and (iv) 10,983,267 shares of common stock issuable upon conversion of notes held by HBM BioVentures (Cayman) Ltd. The board of directors of HBM BioVentures (Cayman) Ltd. has sole voting and investment power with respect to the shares by held by such entity and acts by majority vote. The board of directors of HBM BioVentures (Cayman) Ltd. is comprised of John Arnold, Richard Coles, Sophia Harris, Dr. Andreas Wicki and John Urquhart, none of whom has individual voting or investment power with respect to such shares.

(2) Consists of (i) 14,995,856 shares of Series A convertible preferred stock held by MPM BioVentures IV-QP, L.P., (ii) 577,727 shares of Series A convertible preferred stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (iii) 426,417 shares of Series A convertible preferred stock held by MPM Asset Management Investors BV4 LLC, (iv) 937,241 shares of common stock held by MPM BioVentures IV-QP, L.P., (v) 36,108 shares of common stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (vi) 26,651 shares of common stock held by MPM Asset Management Investors BV4 LLC., (vii) 374,896 shares of common stock issuable upon exercise of warrants held by MPM BioVentures IV-QP, L.P., (viii) 14,443 shares of common stock issuable upon exercise of warrants held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (ix) 10,660 shares of common stock issuable upon exercise of warrants held by MPM Asset Management Investors BV4 LLC, (x) 7,182,705 shares of common stock issuable upon conversion of notes held by MPM BioVentures IV-QP, L.P., (xi) 276,718 shares of common stock issuable upon conversion of notes held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, and (xii) 204,241 shares of common stock issuable upon conversion of notes held by MPM Asset Management Investors BV4 LLC. Dr. Patou is a Managing Director of MPM Asset Management LLC. MPM Asset Management LLC is the Management Company of MPM BioVentures IV LLC. MPM BioVentures IV LLC is the Managing Member of MPM BioVentures IV GP LLC, which is the General Partner of MPM BioVentures IV-QP, LP. and the Managing Limited Partner of MPM BioVentures IV GmbH & Co. Beteiligungs KG. MPM BioVentures IV LLC is the Manager of MPM Asset Management Investors BV4 LLC. Dr. Evnin is a Member of MPM BioVentures IV LLC. Dr. Evnin has a shared power to vote, acquire, hold and dispose of all shares and warrants. Dr. Evnin disclaims beneficial ownership of the securities except to the extent of their pecuniary interest therein.

(3) Consists of (i) 15,849,056 shares of Series A convertible preferred stock held by OrbiMed Private Investments III, LP, (ii) 150,944 shares of Series A convertible preferred stock held by OrbiMed Associates III, LP, (iii) 990,566 shares of common stock held by OrbiMed Private Investments III, LP, (iv) 9,434 shares of common stock held by OrbiMed Associates III, LP, (v) 396,226 shares of common stock issuable upon exercise of warrants held by OrbiMed Private Investments III, LP, (vi) 3,774 shares of common stock issuable upon exercise of warrants held by OrbiMed Associates III, LP, (vii) 7,591,371 shares of common stock issuable upon conversion of notes held by OrbiMed Private Investments III, LP, and (viii) 72,297 shares of common stock issuable upon conversion of notes held by OrbiMed Associates III, LP. Dr. Gordon is a member of OrbiMed Advisors LLC, which has the ultimate voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP and he may be deemed to have voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP. Dr. Gordon disclaims beneficial ownership over the shares held by OrbiMed Advisors and its affiliates, except to the extent of his pecuniary interest therein.

(4) Consists of (i) 7,921,950 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI, L.P., (ii) 267,493 shares of Series A convertible preferred stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (iii) 318,716 shares of Series A convertible preferred stock held by Sanderling VI Limited Partnership, (iv) 7,331,841 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI Co-Investment Fund, L.P., (v) 160,000 shares of Series A convertible preferred stock held by Sanderling Ventures Management VI, (vi) 1,352,985 shares of common stock held by Sanderling Venture Partners VI, L.P., (vii) 21,453 shares of common stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (viii) 25,562 shares of common stock held by Sanderling VI Limited Partnership, (ix) 600,000 shares of common stock held by Sanderling Ventures Management VI, (x) 193,304 shares of common stock issuable upon exercise of warrants held by Sanderling Venture Partners VI, L.P., (xi) 6,769 shares of common stock issuable upon exercise of warrants held by Sanderling VI Beteiligungs GmbH & Co. KG, (xii) 8,065 shares of common stock issuable upon exercise of warrants held by Sanderling VI Limited Partnership, (xiii) 191,863 shares of common stock issuable upon exercise of warrants held by Sanderling Venture Partners VI Co-Investment Fund, L.P., (xiv) 3,703,541 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI, L.P., (xv) 129,677 shares of common stock issuable upon conversion of notes held by Sanderling VI Beteiligungs GmbH & Co. KG, (xvi) 154,510 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI, L.P., (xvii) 3,675,929 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI Co-Investment Fund, L.P. Mr. Middleton is a managing director of Middleton, McNeil, Mills & Associates VI, LLC, which has the ultimate voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. and he may be deemed to have voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. Mr. Middleton is the owner of Sanderling Ventures Management VI and he may be deemed to have voting and investment power over shares held of record by Sanderling Ventures Management VI. Mr. Middleton disclaims beneficial ownership over the shares held by Sanderling Ventures and its affiliates, except to the extent of his pecuniary interest therein.

(5) Includes 1,083,333 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(6) Consists of 433,333 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(7) Consists of 343,958 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(8) Includes 316,667 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(9) Includes 316,667 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(10) Consists of (i) 14,995,856 shares of Series A convertible preferred stock held by MPM BioVentures IV-QP, L.P., (ii) 577,727 shares of Series A convertible preferred stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (iii) 426,417 shares of Series A convertible preferred stock held by MPM Asset Management Investors BV4 LLC, (iv) 937,241 shares of common stock held by MPM BioVentures IV-QP, L.P., (v) 36,108 shares of common stock held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (vi) 26,651 shares of common stock held by MPM Asset Management Investors BV4 LLC., (vii) 374,896 shares of common stock issuable upon exercise of warrants held by MPM BioVentures IV-QP, L.P., (vii) 14,443 shares of common stock issuable upon exercise of warrants held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, (ix) 10,660 shares of common stock issuable upon exercise of warrants held by MPM Asset Management Investors BV4 LLC., (x) 7,182,705 shares of common stock issuable upon conversion of notes held by MPM BioVentures IV-QP, L.P., (xi) 276,718 shares of common stock issuable upon conversion of notes held by MPM BioVentures IV GmbH & Co. Beteiligungs KG, and (xii) 204,241 shares of common stock issuable upon conversion of notes held by MPM Asset Management Investors BV4 LLC. Dr. Evnin is a Member of MPM BioVentures IV LLC. MPM BioVentures IV LLC is the Managing Member of MPM BioVentures IV GP LLC, which is the General Partner of MPM BioVentures IV-QP, LP and the Managing Limited Partner of MPM BioVentures IV GmbH & Co. Beteiligungs KG. MPM BioVentures IV LLC is the Manager of MPM Asset Management Investors BV4 LLC. Dr. Evnin has a shared power to vote, acquire, hold and dispose of all shares and warrants. Dr. Evnin disclaims beneficial ownership of the securities except to the extent of their pecuniary interest therein.

(11) Consists of (i) 15,849,056 shares of Series A convertible preferred stock held by OrbiMed Private Investments III, LP, (ii) 150,944 shares of Series A convertible preferred stock held by OrbiMed Associates III, LP, (iii) 990,566 shares of common stock held by OrbiMed Private Investments III, LP, (iv) 9,434 shares of common stock held by OrbiMed Associates III, LP, (v) 396,226 shares of common stock issuable upon exercise of warrants held by OrbiMed Private Investments III, LP, (vi) 3,774 shares of common stock issuable upon exercise of warrants held by OrbiMed Associates III, LP., (vii) 7,591,371 shares of common stock issuable upon conversion of notes held by OrbiMed Private Investments III, LP, and (viii) 72,297 shares of common stock issuable upon conversion of notes held by OrbiMed Associates III, LP. Dr. Gordon is a member of OrbiMed Advisors LLC, which has the ultimate voting and investment power over shares held of record by OrbiMed Private Investments III, LP. and OrbiMed Associates III, LP and he may be deemed to have voting and investment power over shares held of record by OrbiMed Private Investments III, LP and OrbiMed Associates III, LP. Dr. Gordon disclaims beneficial ownership over the shares held by OrbiMed Advisors and its affiliates, except to the extent of his pecuniary interest therein.

(12) Includes 63,333 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(13) Consists of (i) 7,921,950 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI, L.P., (ii) 267,493 shares of Series A convertible preferred stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (iii) 318,716 shares of Series A convertible preferred stock held by Sanderling VI Limited Partnership, (iv) 7,331,841 shares of Series A convertible preferred stock held by Sanderling Venture Partners VI Co-Investment Fund, L.P., (v) 160,000 shares of Series A convertible preferred stock held by Sanderling Ventures Management VI, (vi) 1,352,985 shares of common stock held by Sanderling Venture Partners VI, L.P., (vii) 21,453 shares of common stock held by Sanderling VI Beteiligungs GmbH & Co. KG, (viii) 25,562 shares of common stock held by Sanderling VI Limited Partnership, (ix) 600,000 shares of common stock held by Sanderling Ventures Management VI, (x) 193,304 shares of common stock issuable upon exercise of warrants held by Sanderling Venture Partners VI, L.P., (xi) 6,769 shares of common stock issuable upon exercise of warrants held by Sanderling VI Beteiligungs GmbH & Co. KG, (xii) 8,065 shares of common stock issuable upon exercise of warrants held by Sanderling VI Limited Partnership, (xiii) 191,863 shares of common stock issuable upon exercise of warrants held by Sanderling Venture Partners VI Co-Investment Fund, L.P., (xiv) 3,703,541 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI, L.P., (xv) 129,677 shares of common stock issuable upon conversion of notes held by Sanderling VI Beteiligungs GmbH & Co. KG, (xvi) 154,510 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI, L.P., (xvii) 3,675,929 shares of common stock issuable upon conversion of notes held by Sanderling Venture Partners VI Co-Investment Fund, L.P. Mr. Middleton is a managing director of Middleton, McNeil, Mills & Associates VI, LLC, which has the ultimate voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. and he may be deemed to have voting and investment power over shares held of record by Sanderling Venture Partners VI, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, Sanderling VI Limited Partnership and Sanderling Venture Partners VI Co-Investment Fund, L.P. Mr. Middleton is the owner of Sanderling Ventures Management VI and he may be deemed to have voting and investment power over shares held of record by Sanderling Ventures Management VI. Mr. Middleton disclaims beneficial ownership over the shares held by Sanderling Ventures and its affiliates, except to the extent of his pecuniary interest therein.

(14) Includes 43,333 shares of common stock issuable upon exercise of stock options within 60 days of September 30, 2010, including options that become exercisable upon completion of this offering.

(15) Consists of (i) 16,000,000 shares of Series A convertible preferred stock held by HBM BioVentures (Cayman) Ltd., (ii) 1,000,000 shares of common stock held by HBM BioVentures (Cayman) Ltd., (iii) 400,000 shares of common stock issuable upon exercise of warrants held by HBM BioVentures (Cayman) Ltd., and (iv) 10,983,267 shares of common stock issuable upon conversion of notes held by HBM BioVentures (Cayman) Ltd. The board of directors of HBM BioVentures (Cayman) Ltd. has sole voting and investment power with respect to the shares by held by such entity and acts by majority vote. The board of directors of HBM BioVentures (Cayman) Ltd. is comprised of John Arnold, Richard Coles, Sophia Harris, Dr. Andreas Wicki and John Urquhart, none of whom has individual voting or investment power with respect to such shares.

DESCRIPTION OF CAPITAL STOCK

General

Following the completion of this offering, our authorized capital stock will consist of shares of common stock, par value $0.001 per share, and 5,000,000 shares of preferred stock, par value $0.001 per share, all of which preferred stock will be undesignated.

The following description of our capital stock and provisions of our restated certificate of incorporation and bylaws are summaries and are qualified by reference to the certificate of incorporation and the bylaws that will be in effect upon completion of this offering. Copies of these documents will be filed with the SEC as exhibits to our registration statement, of which this prospectus forms a part. The descriptions of the common stock and preferred stock reflect changes to our capital structure that will occur upon the completion of this offering.

Common Stock

As of September 30, 2010, there were 109,284,470 shares of our common stock outstanding, held of record by 32 stockholders, assuming the conversion of all outstanding shares of Series A convertible preferred stock and assuming the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest outstanding under our secured and unsecured notes held by certain of our investors into common stock upon completion of this offering.

Voting Rights. Each holder of common stock is entitled to one vote per share on all matters properly submitted to a vote of the stockholders, including the election of directors. Our restated certificate of incorporation and bylaws will not provide for cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose. An election of directors by our stockholders is determined by a plurality of the votes cast by stockholders entitled to vote on the election.

Dividends. Subject to preferences that may be applicable to any then outstanding preferred stock, the holders of our outstanding shares of common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

Liquidation. In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities, subject to the satisfaction of any liquidation preference granted to the holders of any outstanding shares of preferred stock.

Rights and Preferences. Holders of our common stock have no preemptive, conversion or subscription rights, and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of holders of common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

Series A Convertible Preferred Stock

In March 2007, we entered into a Series A Preferred Stock Purchase Agreement pursuant to which we issued and sold to investors an aggregate of 68,000,000 shares of Series A convertible preferred stock in four separate closings held in March 2007, February 2008, July 2008 and October 2008, at a purchase price of $1.25 per share. The aggregate consideration for the Series A Preferred Stock was $85 million in cash.

Each holder of our Series A convertible preferred stock has the right, at the option of the holder at any time, to convert its shares of Series A convertible preferred stock into shares of our common stock at a current conversion ratio of one-to-one, subject to adjustment for stock splits, certain capital reorganizations and dilutive

stock issuances. Each share of our Series A convertible preferred stock will automatically convert into shares of our common stock, at the then effective applicable conversion ratio upon the earlier of: (i) the closing of the sale of our common stock pursuant to a firmly underwritten public offering in which the Company receives gross proceeds of at least $25,000,000 or (ii) the consent of the holders of at least 66 2/3% of the then outstanding shares of Series A convertible preferred stock.

The holders of our Series A convertible preferred stock are entitled to receive, when, as and if declared by our board of directors out of legally available funds, non-cumulative dividends in an amount to any dividends declared, paid or set aside on shares of our common stock. As of September 30, 2010, no dividends have been declared by our board of directors.

In the event of any liquidation, dissolution or winding up of the company, the holders of our Series A convertible preferred stock will be entitled to receive in preference to the holders of our common stock, the amount of their original purchase price per share, plus declared and unpaid dividends, if any. If the assets and funds available to be distributed among the holders of our Series A convertible preferred stock are insufficient to permit the payment to such holders of the full preference, then the entire assets and funds legally available for distribution to such holders shall be distributed ratably based on the total due each holder of our Series A convertible preferred stock. Any remaining assets of the Company will be distributed ratably among the holders of our common stock.

Holders of our Series A convertible preferred stock are entitled to the number of votes they would have upon conversion of their Series A convertible preferred stock into common stock at the then applicable conversion rate. The holders of Series A convertible preferred stock have been granted certain rights with regard to the election of board members and various other corporate actions.

Stock Options

As of September 30, 2010, options to purchase 16,182,011 shares of common stock at a weighted average exercise price of $0.15 per share were outstanding.

Warrants

Assuming no warrants have been exercised as of September 30, 2010, upon the completion of this offering there will be outstanding 11 warrants to purchase an aggregate of 1,700,000 shares of common stock, each at an exercise price of $0.25 per share and each of which expire on January 21, 2014 and two warrants to purchase an aggregate of 250,000 shares of Series A convertible preferred stock, each at an exercise price of $1.25 per share and each of which expire on the earlier of (i) July 2, 2016 or (ii) the fifth anniversary of the completion of this offering.

The warrants to purchase Series A convertible preferred stock have a net exercise provision under which the warrant holder may, in lieu of payment of the exercise price in cash, surrender the warrant and receive a net amount of shares based on the fair market value of our common stock at the time of exercise of the warrant after deduction of the aggregate exercise price. Each of the warrants also contains provisions for the adjustment of the exercise price and the aggregate number of shares issuable upon the exercise of the warrant in the event of stock dividends, split-ups, reclassifications, mergers, consolidations, combinations or exchanges of shares, separations, reorganizations or liquidations.

The holders of the warrants to purchase common stock are entitled to registration rights under our Investors' Rights Agreement, as described in more detail under "Description of Capital Stock—Registration Rights."

Registration Rights

Upon the completion of this offering, holders of a total of 109,812,715 shares of our common stock as of September 30, 2010, including shares of our common stock issuable upon exercise of outstanding warrants and shares issuable upon conversion of all of our outstanding secured and unsecured notes and accrued interest thereon, will have the right to require us to register these shares under the Securities Act, under specified circumstances, pursuant to the terms of the Investor Rights Agreement. After registration pursuant to these rights, these shares will become freely tradable without restriction under the Securities Act. These registration rights will terminate upon the earlier of (i) the date that is five years following the completion of this offering or, (ii) for any particular holder with registration rights, at such time following this offering when all of our securities held by that stockholder may be sold pursuant to Rule 144 under the Securities Act.

Demand and Form S-3 Registration Rights. Subject to specified limitations, the holders of at least thirty percent of our Series A convertible preferred stock having registration rights may demand that we register all or a portion of their registrable shares under the Securities Act. We are not obligated to file a registration statement pursuant to this provision:

- until 180 days after the completion of this offering; and
- on more than three occasions.

In addition, the holders of our registrable shares may demand that we register on Form S-3 all or a portion of the registrable shares held by them. We are not obligated to file a Form S-3 pursuant to this provision on more than two occasions in any 12-month period.

Incidental Registration Rights. If at any time after the completion of this offering we propose to file a registration statement to register any of our securities under the Securities Act, either for our own account or for the account of any of our stockholders, the holders of our registrable shares are entitled to notice of registration and are entitled to include their shares of common stock in the registration.

Limitations and Expenses. In the event that any registration in which the holders of registrable shares participate pursuant to the Investor Rights Agreement is an underwritten public offering, the number of registrable shares to be included may, in specified circumstances, be limited due to market conditions. Pursuant to the Investor Rights Agreement, we are required to pay all registration expenses, including the fees and expenses of one counsel to represent the selling holders, other than any underwriting discounts, selling commissions and similar discounts relating to underwriters or commissions related to sales, related to any demand or incidental registration. We are also required to indemnify each participating holder with respect to each registration of registrable shares that is effected.

Delaware Anti-Takeover Law and Provisions of Our Restated Certificate of Incorporation and Our Bylaws

Delaware Anti-Takeover Law. We are subject to Section 203 of the DGCL. Section 203 generally prohibits a public Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the interested stockholder attained such status with the approval of our board of directors, the business combination is approved in a prescribed manner or the interested stockholder acquired at least 85% of our outstanding voting stock in the transaction in which it became an interested stockholder. A "business combination" includes, among other things, a merger or consolidation involving us and the "interested stockholder" and the sale of more than 10% of our assets. In general, an "interested stockholder" is any entity or person beneficially owning 15% or more of our outstanding voting stock and any entity or person affiliated with or controlling or controlled by such entity or person.

Restated Certificate of Incorporation and Bylaws. Provisions of our restated certificate of incorporation and our bylaws, which will become effective upon the completion of this offering, may delay or discourage

transactions involving an actual or potential change of control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares, or transactions that our stockholders might otherwise deem to be in their best interests. Therefore, these provisions could adversely affect the price of our common stock. Among other things, our restated certificate of incorporation and our bylaws:

- authorize the issuance of "blank check" preferred stock, the terms of which may be established and shares of which may be issued without stockholder approval;
- divide our board of directors into three classes with staggered three-year terms;
- prohibit stockholder action by written consent, thereby requiring all stockholder actions to be taken at a meeting of our stockholders;
- eliminate the ability of stockholders to call a special meeting of stockholders; and
- establish advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at stockholder meetings.

The amendment of any of these provisions by the stockholders would require the approval of the holders at least 66 2/3% of our then outstanding common stock.

Listing on The NASDAQ Global Market

We have applied to have our common stock listed on The NASDAQ Global Market under the symbol "PCRX."

Authorized but Unissued Shares

The authorized but unissued shares of common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the Nasdaq Marketplace Rules. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could make it more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is .

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for our common stock, and a liquid public trading market for our common stock may not develop or be sustained after this offering. Future sales of significant amounts of our common stock, including shares issued upon exercise of outstanding options or warrants, in the public market after this offering, or the anticipation of those sales, could adversely affect public market prices prevailing from time to time and could impair our ability to raise capital through sales of our equity securities. We have applied to have our common stock listed on The Nasdaq Global Market under the symbol "PCRX."

Upon the completion of this offering, we will have outstanding an aggregate of shares of common stock, assuming the automatic conversion of all outstanding shares of our Series A convertible preferred stock and the conversion of $40.0 million aggregate principal amount and all accrued and unpaid interest outstanding under our secured and unsecured notes held by certain of our stockholders into an aggregate of 35,112,715 shares of common stock upon the completion of this offering and the issuance of shares of common stock offered by us in this offering. Of these shares, all shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act, whose sales would be subject to the Rule 144 resale restrictions described below, other than the holding period requirement.

The remaining shares of common stock will be "restricted securities," as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rules 144 or 701 under the Securities Act, which are summarized below.

Subject to the lock-up agreements described below and the provisions of Rules 144 and 701 under the Securities Act, these restricted securities will be available for sale in the public market as follows:

Date available for sale	Shares eligible for sale	Comment
Date of prospectus		Shares sold in the offering and shares saleable under Rule 144 that are not subject to a lock-up
90 days after date of prospectus		Shares saleable under Rules 144 and 701 that are not subject to a lock-up
180 days after date of prospectus		Lock-up released; shares saleable under Rules 144 and 701

In addition, of the 16,182,011 shares of our common stock that were subject to stock options outstanding as of September 30, 2010, options to purchase 4,302,350 shares of common stock were exercisable as of September 30, 2010 and, upon exercise, these shares will be eligible for sale subject to the lock-up agreements and securities laws described below. The 1,950,000 shares of our common stock that were subject to warrants outstanding as of September 30, 2010, were exercisable as of September 30, 2010 and, assuming a cashless exercise, these shares will be eligible for sale subject to the lock-up agreements and securities laws described below.

Rule 144

In general, a person who has beneficially owned shares of our common stock for at least six months would be entitled to sell their shares of common stock in the public market provided that (i) such person is not deemed to have been one of our affiliates at the time of, or at any time during the three months preceding, a sale and (ii) we are and have been subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale and have filed all required reports during that time period. In addition, a person who has beneficially owned shares of our common stock for at least 12 months would be entitled to sell their shares of common stock

in the public market provided that such person is not deemed to have been one of our affiliates at the time of, or at any time during the three months preceding, a sale. Persons who have beneficially owned shares of our common stock for at least six months but who are our affiliates at the time of, or any time during the three months preceding, a sale, would be subject to additional restrictions, by which such person would be entitled to sell within any three-month period only a number of shares that does not exceed the greater of either of the following:

- 1% of the number of shares of our common stock then outstanding (approximately shares immediately after this offering); or
- the average weekly trading volume in our common stock on The NASDAQ Global Market during the four calendar weeks immediately preceding the date on which the notice of sale is filed with the SEC;

provided, in each case, that we are subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale and have filed all required reports during that time period. Such sales by affiliates must also comply with the manner of sale, current public information and notice provisions of Rule 144.

Approximately shares of our common stock that are not subject to the lock-up agreements described below will be eligible for sale immediately upon the completion of this offering.

Upon expiration of the 180-day lock-up period described below, approximately shares of our common stock will be eligible for sale under Rule 144, including shares eligible for resale immediately upon the completion of this offering as described above. We cannot estimate the number of shares of our common stock that our existing stockholders will elect to sell under Rule 144.

Rule 701

In general, under Rule 701, any of an issuer's employees, directors, officers, consultants or advisors who purchases shares from the issuer in connection with a compensatory stock or option plan or other written agreement before the effective date of a registration statement under the Securities Act is entitled to sell such shares 90 days after such effective date in reliance on Rule 144. An affiliate of the issuer can resell shares in reliance on Rule 144 without having to comply with the holding period requirement, and non-affiliates of the issuer can resell shares in reliance on Rule 144 without having to comply with the current public information and holding period requirements.

The SEC has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Exchange Act, along with the shares acquired upon exercise of such options, including exercises after an issuer becomes subject to the reporting requirements of the Exchange Act.

Lock-up Agreements

Our officers and directors and the holders of substantially all of our outstanding shares of capital stock have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock for a period through the date 180 days after the date of this prospectus, as modified as described below, except with the prior written consent of Barclays Capital Inc. and Piper Jaffray & Co. on behalf of the underwriters.

The 180-day restricted period will be automatically extended or reduced under the following circumstances: (1) during the last 17 days of the 180-day restricted period, if we issue an earnings release or announce material news or a material event, the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or material event; or (2) prior to the expiration of the 180-day restricted period, if we announce

that we will release earnings results or other material news during the 16-day period following the last day of the 180-day period, the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or other material news.

Stock Options and Warrants

As of September 30, 2010, we had outstanding options to purchase 16,182,011 shares of common stock, of which options to purchase 4,302,350 shares of common stock were vested as of September 30, 2010. Following this offering, we intend to file registration statements on Form S-8 under the Securities Act to register all of the shares of common stock subject to outstanding options and options and other awards issuable pursuant to our 2007 Plan and any equity incentive plan we may adopt. As of September 30, 2010, we also had outstanding and exercisable warrants to purchase 1,700,000 shares of common stock and 250,000 shares of our Series A convertible preferred stock.

CERTAIN MATERIAL U.S. FEDERAL TAX CONSIDERATIONS

The following is a general discussion of the material U.S. federal income and estate tax considerations applicable to non-U.S. holders with respect to their ownership and disposition of shares of our common stock issued pursuant to this offering. This discussion is not tax advice. Accordingly, all prospective non-U.S. holders of our common stock should consult their own tax advisors with respect to the U.S. federal, state, local and non-U.S. tax consequences of the purchase, ownership and disposition of our common stock. In general, a non-U.S. holder means a beneficial owner of our common stock who is not for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation or any other organization taxable as a corporation for U.S. federal income tax purposes, created or organized in the United States or under the laws of the United States or of any state thereof or the District of Columbia;
- an estate, the income of which is included in gross income for U.S. federal income tax purposes regardless of its source; or
- a trust if (1) a U.S. court is able to exercise primary supervision over the trust's administration and one or more U.S. persons have the authority to control all of the trust's substantial decisions or (2) the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

This discussion is based on current provisions of the U.S. Internal Revenue Code of 1986, as amended, which we refer to as the Code, existing and proposed U.S. Treasury Regulations promulgated thereunder, current administrative rulings and judicial decisions, publicly available and in effect as of the date of this prospectus, all of which are subject to change and to differing interpretation, possibly with retroactive effect. Any change or differing interpretation could alter the tax consequences to non-U.S. holders described in this prospectus. We assume in this discussion that a non-U.S. holder holds shares of our common stock as a capital asset, generally property held for investment.

This discussion does not address all aspects of U.S. federal income and estate taxation that may be relevant to a particular non-U.S. holder in light of that non-U.S. holder's individual circumstances nor does it address any aspects of U.S. state, local or non-U.S. taxes. This discussion also does not consider any specific facts or circumstances that may apply to a non-U.S. holder and does not address the special tax rules applicable to particular non-U.S. holders, such as:

- insurance companies;
- tax-exempt organizations;
- financial institutions;
- brokers or dealers in securities;
- pension plans;
- controlled foreign corporations;
- passive investors;
- owners that hold our common stock as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment; and
- certain U.S. expatriates.

In addition, this discussion does not address the tax treatment of partnerships or persons who hold their common stock through partnerships or other pass-through entities for U.S. federal income tax purposes. A partner in a partnership or other pass-through entity that will hold our common stock should consult his, her or its own tax advisor regarding the tax consequences of acquiring, holding and disposing of our common stock through a partnership or other pass-through entity, as applicable.

There can be no assurance that the Internal Revenue Service, which we refer to as the IRS, will not challenge one or more of the tax consequences described herein, and we have not obtained, nor do we intend to obtain, an opinion of counsel with respect to the U.S. federal income or estate tax consequences to a non-U.S. holder of the purchase, ownership or disposition of our common stock.

Distributions on Our Common Stock

Distributions on our common stock generally will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. If a distribution exceeds our current and accumulated earnings and profits, the excess will be treated as a tax-free return of the non-U.S. holder's investment, up to such holder's tax basis in the common stock. Any remaining excess will be treated as capital gain, subject to the tax treatment described below in "Gain on Sale, Exchange or Other Disposition of Our Common Stock."

Dividends paid to a non-U.S. holder generally will be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence. If we determine, at a time reasonably close to the date of payment of a distribution on our common stock, that the distribution will not constitute a dividend because we do not anticipate having current or accumulated earnings and profits, we intend not to withhold any U.S. federal income tax on the distribution as permitted by U.S. Treasury Regulations. If we or another withholding agent withholds tax on such a distribution, a non-U.S. holder may be entitled to a refund of any excess tax withheld, which the non-U.S. holder may claim by timely filing a U.S. tax return with the IRS.

Dividends that are treated as effectively connected with a trade or business conducted by a non-U.S. holder within the United States and, if an applicable income tax treaty so provides, that are attributable to a permanent establishment or a fixed base maintained by the non-U.S. holder within the United States, are generally exempt from the 30% withholding tax if the non-U.S. holder satisfies applicable certification and disclosure requirements. However, such U.S. effectively connected income, net of specified deductions and credits, is taxed at the same graduated U.S. federal income tax rates applicable to U.S. persons (as defined in the Code). Any U.S. effectively connected income received by a non-U.S. holder that is a corporation may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence.

A non-U.S. holder of our common stock who claims the benefit of an applicable income tax treaty between the United States and such holder's country of residence generally will be required to provide a properly executed IRS Form W-8BEN (or successor form) and satisfy applicable certification and other requirements. Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under a relevant income tax treaty.

A non-U.S. holder that is eligible for a reduced rate of U.S. withholding tax under an income tax treaty may obtain a refund or credit of any excess amounts withheld by timely filing a U.S. tax return with the IRS.

Gain on Sale, Exchange or Other Disposition of Our Common Stock

In general, a non-U.S. holder will not be subject to any U.S. federal income tax or withholding tax on any gain realized upon such holder's sale, exchange or other disposition of shares of our common stock unless:

- the gain is effectively connected with a U.S. trade or business and, if an applicable income tax treaty so provides, is attributable to a permanent establishment or a fixed base maintained by such non-U.S. holder, in which case the non-U.S. holder generally will be taxed at the graduated U.S. federal income tax rates applicable to U.S. persons (as defined in the Code) and, if the non-U.S. holder is a foreign corporation, the branch profits tax described above in "Distributions on Our Common Stock" also may apply, unless an applicable tax treaty provides otherwise;

- the non-U.S. holder is a nonresident alien individual who is present in the United States for 183 days or more in the taxable year of the disposition and certain other conditions are met, in which case the non-U.S. holder will be subject to a 30% tax (or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence) on the net gain derived from the disposition, which may be offset by U.S. source capital losses of the non-U.S. holder, if any; or
- we are, or have been, at any time during the five-year period preceding such disposition (or the non-U.S. holder's holding period, if shorter) a "U.S. real property holding corporation," unless (1) our common stock is regularly traded on an established securities market and (2) the non-U.S. holder holds no more than 5% of our outstanding common stock, directly or indirectly, actually or constructively, during the shorter of (i) the 5-year period ending on the date of the disposition or (ii) the period that the non-U.S. holder held our common stock. If we are determined to be a U.S. real property holding corporation, provided that our common stock is regularly traded on an established securities market, no U.S. withholding tax would apply to the proceeds payable to a non-U.S. holder from a sale of our common stock. However, in the event we are determined to be a U.S. real property holding corporation, if the non-U.S. holder holds more than 5% of our common stock as described above the non-U.S. holder generally will be taxed on its net gain derived from the disposition at the graduated U.S. federal income tax rates applicable to U.S. persons (as defined in the Code). Generally, a corporation is a U.S. real property holding corporation only if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Although there can be no assurance, we do not believe that we are, or have been, a U.S. real property holding corporation, or that we are likely to become one in the future. No assurance can be provided that our common stock will be regularly traded on an established securities market for purposes of the rules described above.

U.S. Federal Estate Tax

Shares of our common stock that are owned or treated as owned at the time of death by an individual who is not a citizen or resident of the United States, as specifically defined for U.S. federal estate tax purposes, are considered U.S. situs assets and will be included in the individual's gross estate for U.S. federal estate tax purposes. Such shares, therefore, may be subject to U.S. federal estate tax, unless an applicable estate tax or other treaty provides otherwise.

Backup Withholding and Information Reporting

We must report annually to the IRS and to each non-U.S. holder the gross amount of the distributions on our common stock paid to such holder and the tax withheld, if any, with respect to such distributions. Non-U.S. holders may have to comply with specific certification procedures to establish that the holder is not a U.S. person (as defined in the Code) in order to avoid backup withholding at the applicable rate, currently 28% through December 31, 2010 and scheduled to increase to 31% for taxable years thereafter, with respect to dividends on our common stock. Dividends paid to non-U.S. holders subject to the U.S. withholding tax, as described above in "Distributions on Our Common Stock," generally will be exempt from U.S. backup withholding.

Information reporting and backup withholding will generally apply to the proceeds of a disposition of our common stock by a non-U.S. holder effected by or through the U.S. office of any broker, U.S. or foreign, unless the holder certifies its status as a non-U.S. holder and satisfies certain other requirements, or otherwise establishes an exemption. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds to a non-U.S. holder where the transaction is effected outside the United States through a non-U.S. office of a broker. However, for information reporting purposes, dispositions effected through a non-U.S. office of a broker with substantial U.S. ownership or operations generally will be treated in a manner similar to dispositions effected through a U.S. office of a broker. Non-U.S. holders should consult their own tax advisors regarding the application of the information reporting and backup withholding rules to them.

Copies of information returns may be made available to the tax authorities of the country in which the non-U.S. holder resides or is incorporated under the provisions of a specific treaty or agreement.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-U.S. holder can be refunded or credited against the non-U.S. holder's U.S. federal income tax liability, if any, provided that an appropriate claim is timely filed with the IRS.

New Legislation Relating to Foreign Accounts

Newly enacted legislation may impose withholding taxes on certain types of payments made to "foreign financial institutions" and certain other non-U.S. entities. Under this legislation, the failure to comply with additional certification, information reporting and other specified requirements could result in withholding tax being imposed on payments of dividends and sales proceeds to U.S. holders who own shares of our common stock through foreign accounts or foreign intermediaries and certain non-U.S. holders. The legislation imposes a 30% withholding tax on dividends on, or gross proceeds from the sale or other disposition of, our common stock paid to a foreign financial institution or to a foreign non-financial entity, unless (1) the foreign financial institution undertakes certain diligence and reporting obligations or (2) the foreign non-financial entity either certifies it does not have any substantial U.S. owners or furnishes identifying information regarding each substantial U.S. owner. In addition, if the payee is a foreign financial institution, it must enter into an agreement with the U.S. Treasury requiring, among other things, that it undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities, annually report certain information about such accounts and withhold 30% on payments to account holders whose actions prevent it from complying with these reporting and other requirements. The legislation applies to payments made after December 31, 2012. Prospective investors should consult their tax advisors regarding this legislation.

UNDERWRITING

Barclays Capital Inc. and Piper Jaffray & Co. are acting as the representatives of the underwriters and the joint book-running managers of this offering. Under the terms of an underwriting agreement, which is filed as an exhibit to the registration statement, each of the underwriters named below has severally agreed to purchase from us the respective number of common stock shown opposite its name below:

Underwriters	Number of Shares
Barclays Capital Inc.	
Piper Jaffray & Co.	
Wedbush Securities Inc.	
Brean Murray, Carret & Co., LLC	
Total	

The underwriting agreement provides that the underwriters' obligation to purchase shares of common stock depends on the satisfaction of the conditions contained in the underwriting agreement including:

- the obligation to purchase all of the shares of common stock offered hereby (other than those shares of common stock covered by their option to purchase additional shares as described below), if any of the shares are purchased;
- the representations and warranties made by us to the underwriters are true;
- there is no material change in our business or the financial markets; and
- we deliver customary closing documents to the underwriters.

Commissions and Expenses

The following table summarizes the underwriting discounts and commissions we will pay to the underwriters. These amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares. The underwriting fee is the difference between the initial price to the public and the amount the underwriters pay to us for the shares.

	No Exercise	Full Exercise
Per share		
Total		

The representatives of the underwriters have advised us that the underwriters propose to offer the shares of common stock directly to the public at the public offering price on the cover of this prospectus and to selected dealers, which may include the underwriters, at such offering price less a selling concession not in excess of $ per share. After the offering, the representatives may change the offering price and other selling terms. Sales of shares made outside of the United States may be made by affiliates of the underwriters.

The expenses of the offering that are payable by us are estimated to be $ (excluding underwriting discounts and commissions).

Option to Purchase Additional Shares

We have granted the underwriters an option exercisable for 30 days after the date of this prospectus, to purchase, from time to time, in whole or in part, up to an aggregate of shares at the public offering price less underwriting discounts and commissions. This option may be exercised if the underwriters sell more than shares in connection with this offering. To the extent that this option is exercised, each underwriter will

be obligated, subject to certain conditions, to purchase its pro rata portion of these additional shares based on the underwriter's underwriting commitment in the offering as indicated in the table at the beginning of this Underwriting section.

Lock-Up Agreements

We, all of our directors and executive officers and holders of more than 5% of our outstanding stock have agreed that, subject to certain exceptions, without the prior written consent of each of Barclays Capital Inc. and Piper Jaffray, we will not directly or indirectly, (1) offer for sale, sell, pledge, or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any shares of our common stock (including, without limitation, shares of our common stock that may be deemed to be beneficially owned by them in accordance with the rules and regulations of the Securities and Exchange Commission and shares of common stock that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for our common stock, (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of the shares of our common stock, (3) make any demand for or exercise any right or file or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any shares of our common stock or securities convertible, exercisable or exchangeable into shares of our common stock or any of our other securities, or (4) publicly disclose the intention to do any of the foregoing for a period of 180 days after the date of this prospectus.

The 180-day restricted period described in the preceding paragraph will be extended if:

- during the last 17 days of the 180-day restricted period we issue an earnings release or material news or a material event relating to us occurs; or
- prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day restricted period,

in which case the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or occurrence of a material event, unless such extension is waived in writing by Barclays Capital Inc. and Piper Jaffray.

Barclays Capital Inc. and Piper Jaffray, in their sole discretion, may release the common stock and other securities subject to the lock-up agreements described above in whole or in part at any time with or without notice. When determining whether or not to release common stock and other securities from lock-up agreements, Barclays Capital Inc. and Piper Jaffray will consider, among other factors, the holder's reasons for requesting the release, the number of shares of common stock and other securities for which the release is being requested and market conditions at the time.

Offering Price Determination

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be negotiated between the representatives and us. In determining the initial public offering price of our common stock, the representatives will consider:

- the history and prospects for the industry in which we compete;
- our financial information;
- the ability of our management and our business potential and earning prospects;
- the prevailing securities markets at the time of this offering; and
- the recent market prices of, and the demand for, publicly traded shares of generally comparable companies.

Indemnification

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, and to contribute to payments that the underwriters may be required to make for these liabilities.

Stabilization, Short Positions and Penalty Bids

The representatives may engage in stabilizing transactions, short sales and purchases to cover positions created by short sales, and penalty bids or purchases for the purpose of pegging, fixing or maintaining the price of the common stock, in accordance with Regulation M under the Securities Exchange Act of 1934, as amended:

- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- A short position involves a sale by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase in the offering, which creates the syndicate short position. This short position may be either a covered short position or a naked short position. In a covered short position, the number of shares involved in the sales made by the underwriters in excess of the number of shares they are obligated to purchase is not greater than the number of shares that they may purchase by exercising their option to purchase additional shares. In a naked short position, the number of shares involved is greater than the number of shares in their option to purchase additional shares. The underwriters may close out any short position by either exercising their option to purchase additional shares and/or purchasing shares in the open market. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through their option to purchase additional shares. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.
- Syndicate covering transactions involve purchases of the common stock in the open market after the distribution has been completed in order to cover syndicate short positions.
- Penalty bids permit the representatives to reclaim a selling concession from a syndicate member when the common stock originally sold by the syndicate member is purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of the common stock. As a result, the price of the common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on The NASDAQ Global Market or otherwise and, if commenced, may be discontinued at any time.

Neither we nor any of the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the common stock. In addition, neither we nor any of the underwriters make representation that the representatives will engage in these stabilizing transactions or that any transaction, once commenced, will not be discontinued without notice.

Electronic Distribution

A prospectus in electronic format may be made available on the Internet sites or through other online services maintained by one or more of the underwriters and/or selling group members participating in this offering, or by their affiliates. In those cases, prospective investors may view offering terms online and, depending upon the particular underwriter or selling group member, prospective investors may be allowed to place orders online. The underwriters may agree with us to allocate a specific number of shares for sale to online brokerage account holders. Any such allocation for online distributions will be made by the representatives on the same basis as other allocations.

Other than the prospectus in electronic format, the information on any underwriter's or selling group member's web site and any information contained in any other web site maintained by an underwriter or selling group member is not part of the prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or any underwriter or selling group member in its capacity as underwriter or selling group member and should not be relied upon by investors.

The NASDAQ Global Market

We have applied to list our shares of common stock for quotation on The NASDAQ Global Market under the symbol "PCRX."

Discretionary Sales

The underwriters have informed us that they do not intend to confirm sales to discretionary accounts that exceed 5% of the total number of shares offered by them.

Stamp Taxes

If you purchase shares of common stock offered in this prospectus, you may be required to pay stamp taxes and other charges under the laws and practices of the country of purchase, in addition to the offering price listed on the cover page of this prospectus.

Relationships

Certain of the underwriters and/or their affiliates have engaged, and may in the future engage, in commercial and investment banking transactions with us in the ordinary course of their business. They have received, and expect to receive, customary compensation and expense reimbursement for these commercial and investment banking transactions.

Selling Restrictions

European Economic Area

In relation to each member state of the European Economic Area that has implemented the Prospectus Directive (each, a relevant member state), with effect from and including the date on which the Prospectus Directive is implemented in that relevant member state (the relevant implementation date), an offer of securities described in this prospectus may not be made to the public in that relevant member state other than:

- to any legal entity that is authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- to any legal entity that has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;
- to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the representative***s***; or
- in any other circumstances that do not require the publication of a prospectus pursuant to Article 3 of the Prospectus Directive,

provided that no such offer of securities shall require us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Directive.

For purposes of this provision, the expression an "offer of securities to the public" in any relevant member state means the communication in any form and by any means of sufficient information on the terms of the offer and the securities to be offered so as to enable an investor to decide to purchase or subscribe the securities, as the expression may be varied in that member state by any measure implementing the Prospectus Directive in that member state, and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each relevant member state.

We have not authorized and do not authorize the making of any offer of securities through any financial intermediary on their behalf, other than offers made by the underwriters with a view to the final placement of the securities as contemplated in this prospectus. Accordingly, no purchaser of the securities, other than the underwriters, is authorized to make any further offer of the securities on behalf of us, or the underwriters.

United Kingdom

This prospectus is only being distributed to, and is only directed at, persons in the United Kingdom that are qualified investors within the meaning of Article 2(1)(e) of the Prospectus Directive ("Qualified Investors") that are also (i) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "Order") or (ii) high net worth entities, and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons"). This prospectus and its contents are confidential and should not be distributed, published or reproduced (in whole or in part) or disclosed by recipients to any other persons in the United Kingdom. Any person in the United Kingdom that is not a relevant persons should not act or rely on this document or any of its contents.

Australia

No prospectus or other disclosure document (as defined in the Corporations Act 2001 (Cth) of Australia ("Corporations Act")) in relation to the securities has been or will be lodged with the Australian Securities & Investments Commission ("ASIC"). This document has not been lodged with ASIC and is only directed to certain categories of exempt persons. Accordingly, if you receive this document in Australia:

(a) you confirm and warrant that you are either:

  (i) a "sophisticated investor" under section 708(8)(a) or (b) of the Corporations Act;

  (ii) a "sophisticated investor" under section 708(8)(c) or (d) of the Corporations Act and that you have provided an accountant's certificate to us which complies with the requirements of section 708(8)(c)(i) or (ii) of the Corporations Act and related regulations before the offer has been made;

  (iii) a person associated with the company under section 708(12) of the Corporations Act; or

  (iv) a "professional investor" within the meaning of section 708(11)(a) or (b) of the Corporations Act,

and to the extent that you are unable to confirm or warrant that you are an exempt sophisticated investor, associated person or professional investor under the Corporations Act any offer made to you under this document is void and incapable of acceptance; and

(b) you warrant and agree that you will not offer any of the securities for resale in Australia within 12 months of those securities being issued unless any such resale offer is exempt from the requirement to issue a disclosure document under section 708 of the Corporations Act.

Hong Kong

The securities may not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made under that Ordinance or (b) in other circumstances which do not result in the document being a

"prospectus" as defined in the Companies Ordinance (Cap. 32, Laws of Hong Kong) or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the securities may be issued or may be in the possession of any person for the purpose of the issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to the securities which are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) or any rules made under that Ordinance.

India

This prospectus has not been and will not be registered as a prospectus with the Registrar of Companies in India or with the Securities and Exchange Board of India. This prospectus or any other material relating to these securities is for information purposes only and may not be circulated or distributed, directly or indirectly, to the public or any members of the public in India and in any event to not more than 50 persons in India. Further, persons into whose possession this prospectus comes are required to inform themselves about and to observe any such restrictions. Each prospective investor is advised to consult its advisors about the particular consequences to it of an investment in these securities. Each prospective investor is also advised that any investment in these securities by it is subject to the regulations prescribed by the Reserve Bank of India and the Foreign Exchange Management Act and any regulations framed thereunder.

Japan

No securities registration statement ("SRS") has been filed under Article 4, Paragraph 1 of the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) ("FIEL") in relation to the securities. The securities are being offered in a private placement to "qualified institutional investors" (tekikaku-kikan-toshika) under Article 10 of the Cabinet Office Ordinance concerning Definitions provided in Article 2 of the FIEL (the Ministry of Finance Ordinance No. 14, as amended) ("QIIs"), under Article 2, Paragraph 3, Item 2 i of the FIEL. Any QII acquiring the securities in this offer may not transfer or resell those shares except to other QIIs.

Korea

The securities may not be offered, sold and delivered directly or indirectly, or offered or sold to any person for reoffering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the Korea Securities and Exchange Act and the Foreign Exchange Transaction Law and the decrees and regulations thereunder. The securities have not been registered with the Financial Services Commission of Korea for public offering in Korea. Furthermore, the securities may not be resold to Korean residents unless the purchaser of the securities complies with all applicable regulatory requirements (including but not limited to government approval requirements under the Foreign Exchange Transaction Law and its subordinate decrees and regulations) in connection with the purchase of the securities.

Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the securities may not be circulated or distributed, nor may the securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Future Act, Chapter 289 of Singapore (the "SFA"), (ii) to a "relevant person" as defined in Section 275(2) of the SFA, or any person pursuant to Section 275 (1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the securities are subscribed and purchased under Section 275 of the SFA by a relevant person which is:

(a) a corporation (which is not an accredited investor as defined in Section 4A of the SFA) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or

(b) a trust (where the trustee is not an accredited investor (as defined in Section 4A of the SFA)) whose sole whole purpose is to hold investments and each beneficiary is an accredited investor,

shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferable within six months after that corporation or that trust has acquired the securities under Section 275 of the SFA except:

(i) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA) and in accordance with the conditions, specified in Section 275 of the SFA;

(ii) (in the case of a corporation) where the transfer arises from an offer referred to in Section 275(1A) of the SFA, or (in the case of a trust) where the transfer arises from an offer that is made on terms that such rights or interests are acquired at a consideration of not less than S$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(iii) where no consideration is or will be given for the transfer; or

(iv) where the transfer is by operation of law.

By accepting this prospectus, the recipient hereof represents and warrants that he is entitled to receive it in accordance with the restrictions set forth above and agrees to be bound by limitations contained herein. Any failure to comply with these limitations may constitute a violation of law.

LEGAL MATTERS

The validity of the shares of common stock offered hereby is being passed upon for us by Wilmer Cutler Pickering Hale and Dorr LLP, Palo Alto, California. The underwriters are represented by Latham & Watkins LLP, New York, New York, in connection with certain legal matters related to this offering.

EXPERTS

The consolidated financial statements as of December 31, 2008 and 2009 and for each of the three years in the period ended December 31, 2009 included in this prospectus have been audited by J.H. Cohn LLP, an independent registered public accounting firm, as stated in their report, which includes an explanatory paragraph relating to our ability to continue as a going concern, appearing elsewhere in this prospectus. Such consolidated financial statements are included in reliance upon the report of such firm given on the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock to be sold in the offering. This prospectus, which constitutes part of the registration statement, does not include all of the information contained in the registration statement and the exhibits, schedules and amendments to the registration statement. Some items are omitted in accordance with the rules and regulations of the SEC. For further information with respect to us and our common stock, we refer you to the registration statement and to the exhibits and schedules to the registration statement filed as part of the registration statement. Statements contained in this prospectus about the contents of any contract or any other document filed as an exhibit are not necessarily complete, and, and in each instance, we refer you to the copy of the contract or other documents filed as an exhibit to the registration statement. Each of theses statements is qualified in all respects by this reference.

You may read and copy the registration statement of which this prospectus is a part at the SEC's public reference room, which is located at 100 F Street, NE, Room 1580, Washington, D.C. 20549. You can request copies of the registration statement by writing to the SEC and paying a fee for the copying cost. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the SEC's public reference room. In addition, the SEC maintains an Internet website, which is located at www.sec.gov, that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. You may access the registration statement of which this prospectus is a part at the SEC's Internet website.

Upon completion of the offering, we will become subject to the full informational and periodic reporting requirements of the Exchange Act. We will fulfill our obligations with respect to such requirements by filing periodic reports and other information with the SEC. We intend to furnish our stockholders with annual reports containing consolidated financial statements certified by an independent registered public accounting firm. We also maintain a website at www.pacira.com. Our website is not a part of this prospectus.

Pacira Pharmaceuticals, Inc.

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Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Pacira Pharmaceuticals, Inc.

We have audited the consolidated balance sheets of Pacira Pharmaceuticals, Inc. and subsidiaries as of December 31, 2009 and 2008, and the related consolidated statements of operations, stockholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2009. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Pacira Pharmaceuticals, Inc. and subsidiaries as of December 31, 2009 and 2008, and their results of operations and cash flows for each of the three years in the period ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has suffered recurring losses and as of December 31, 2009 has a working capital and stockholders' deficit that raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ J.H. Cohn LLP

Roseland, New Jersey
November 1, 2010

Pacira Pharmaceuticals, Inc.

Consolidated Balance Sheets
as of December 31, 2009 and 2008

	December 31, 2009	2008
	(in thousands, except share and per share amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 7,077	$ 12,386
Restricted cash	1,216	1,182
Trade accounts receivable	1,455	2,585
Inventories, net	1,729	2,028
Prepaid expenses and other current assets	1,072	1,176
Total current assets	12,549	19,357
Fixed assets, net	19,560	18,037
Intangibles, net	11,178	13,084
Other assets, net	667	63
Total assets	$ 43,954	$ 50,541
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	$ 6,994	$ 11,794
Accrued expenses	3,478	1,733
Current portion of royalty interest obligation	1,599	1,443
Current portion of deferred revenue	2,346	2,046
Embedded derivative—royalty interest obligation	472	1,034
Total current liabilities	14,889	18,050
Related party debt, including accrued interest	22,173	—
Royalty interest obligation, excluding current portion	3,647	3,618
Deferred revenue, excluding current portion	20,387	16,894
Contingent purchase liability	656	656
Deferred rent	1,177	874
Other long-term liabilities	3,060	2,607
Total liabilities	65,989	42,699
Commitments and Contingencies		
Stockholders' equity (deficit):		
Preferred stock, par value $0.001, 88,000,000 shares authorized, 68,000,000 issued and outstanding at December 31, 2009 and 2008 (liquidation preference of $85,000,000)	68	68
Common stock, par value $0.001, 120,000,000 shares authorized, 6,172,641 and 6,153,725 shares issued and outstanding at December 31, 2009 and 2008, respectively	6	6
Additional paid-in capital	86,739	85,471
Accumulated deficit	(108,848)	(77,703)
Total stockholders' equity (deficit)	(22,035)	7,842
Total liabilities and stockholders' equity (deficit)	$ 43,954	$ 50,541

See accompanying notes to consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Consolidated Statements of Operations
Years Ended December 31, 2009, 2008, and 2007

	Years Ended December 31,		
	2009	2008	2007
		(in thousands, except share and per share data)	
Revenues:			
Supply revenue	$ 6,324	$ 6,852	$ 5,444
Royalties	4,044	3,648	2,388
Collaborative licensing and development revenue	4,638	3,425	509
Total revenues	15,006	13,925	8,341
Operating expenses:			
Cost of revenues	12,301	17,463	9,492
Research and development	27,042	34,067	21,247
Selling, general and administrative	4,211	7,758	3,588
Acquired in-process research and development	—	—	12,400
Total operating expenses	43,554	59,288	46,727
Loss from operations	(28,548)	(45,363)	(38,386)
Other income (expense)	367	(224)	16
Interest:			
Interest income	77	235	491
Interest (expense)	(1,723)	—	—
Royalty interest obligation	(1,318)	2,817	2,711
Net loss	$ (31,145)	$ (42,535)	$ (35,168)
Net loss per common share:			
Basic and diluted net loss per share	$ (5.05)	$ (7.49)	$ (7.03)
Weighted average shares outstanding—basic and diluted	6,163,884	5,682,481	5,000,000

See accompanying notes to consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Consolidated Statements of Stockholders' Equity (Deficit)
Years Ended December 31, 2009, 2008, and 2007

	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount			
					(in thousands)		
Balances, January 1, 2007	—	$ —	—	$ —	$ —	$ —	$ —
Issuance of preferred stock	36,000	36			44,964		45,000
Issuance of common stock			5,000	5	45		50
Share-based compensation					80		80
Net loss						(35,168)	(35,168)
Balances, December 31, 2007	36,000	36	5,000	5	45,089	(35,168)	9,962
Issuance of preferred stock	32,000	32			39,968		40,000
Exercise of stock options			1,154	1	172		173
Share-based compensation					242		242
Net loss						(42,535)	(42,535)
Balances, December 31, 2008	68,000	68	6,154	6	85,471	(77,703)	7,842
Exercise of stock options			19		3		3
Share-based compensation					524		524
Issue of warrants to landlord					204		204
Debt discount from beneficial conversion features and issuance of warrants with convertible notes					537		537
Net loss						(31,145)	(31,145)
Balances, December 31, 2009	68,000	$ 68	6,173	$ 6	$ 86,739	$(108,848)	$ (22,035)

See accompanying notes to consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Consolidated Statements of Cash Flows
Years Ended December 31, 2009, 2008, and 2007

	Years Ended December 31,		
	2009	2008	2007
		(in thousands)	
Operating activities:			
Net loss	$ (31,145)	$ (42,535)	$ (35,168)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	4,146	4,227	3,159
Amortization of other assets and unfavorable lease obligation	(314)	(396)	(297)
Amortization of note discounts and warrants	600	—	—
Write-off of in-process research and development	—	—	12,400
Impairment loss	—	125	—
Loss (gain) on disposal of fixed assets	1,707	301	(2)
Share-based compensation	524	242	80
Change in royalty interest obligation	185	(5,183)	(2,756)
Embedded derivative fair value adjustment	(562)	673	(1,025)
Changes in operating assets and liabilities, net of acquisition:			
Restricted cash	(34)	248	(1,430)
Trade accounts receivable	1,130	(1,562)	(173)
Inventories	299	277	(623)
Other current assets	244	(40)	(573)
Accounts payable	(4,438)	4,807	3,528
Other liabilities	2,724	(2,122)	1,593
Deferred revenue	3,793	11,303	7,424
Deferred rent	303	446	428
Net cash provided by (used in) operating activities	(20,838)	(29,189)	(13,435)
Investing activities:			
Purchase of fixed assets	(5,509)	(5,840)	(2,124)
Proceeds from sale of fixed assets	—	2	4
Acquisition of intangibles	—	—	(1,442)
Acquisition of SkyePharma, Inc., net of cash acquired of $175	—	—	(20,813)
Net cash provided by (used in) investing activities	(5,509)	(5,838)	(24,375)
Financing activities:			
Proceeds from issuance of preferred stock	—	40,000	45,000
Proceeds from exercise of stock options and issuance of common stock	3	173	50
Proceeds from convertible notes	10,625	—	—
Proceeds from secured promissory notes	10,625	—	—
Financing costs	(215)	—	—
Net cash provided by (used in) financing activities	21,038	40,173	45,050
Net (decrease) increase in cash and cash equivalents	(5,309)	5,146	7,240
Cash and cash equivalents, beginning of year	12,386	7,240	—
Cash and cash equivalents, end of year	$ 7,077	$ 12,386	$ 7,240
Supplemental cash flow information –			
Cash paid for interest	$ 1,714	$ 1,692	$ 1,070
Non cash investing and financing activities:			
Accrual for repurchase of intangibles	$ 323	$ 294	$ —
Accrued fixed asset purchases	$ 2,254	$ 3,682	$ —
Value of warrants issued with convertible debt and beneficial conversion feature	$ 537	$ —	$ —
Value of warrants issued to landlord	$ 204	$ —	$ —

See accompanying notes to consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements

1. BUSINESS

Pacira Pharmaceuticals, Inc., and its subsidiaries (collectively, the "Company" or "Pacira") is an emerging specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products, based on its proprietary DepoFoam drug delivery technology, for use in hospitals and ambulatory surgery centers.

The Company was incorporated in Delaware under the name Blue Acquisition Corp. in December 2006 and changed its name to Pacira, Inc. in June 2007. In October 2010, the Company changed its name to Pacira Pharmaceuticals, Inc. Pacira Pharmaceuticals, Inc. is the holding company for the Company's California operating subsidiary of the same name, which we refer to as PPI-California. The consolidated financial statements include the Company's wholly owned subsidiaries PPI-California and Pacira Limited.

As further discussed in Note 4, on March 24, 2007, or the Acquisition Date, MPM Capital, Sanderling Ventures, OrbiMed Advisors, HBM BioVentures, the Foundation for Research and their co-investors, or the Investors, through Pacira Pharmaceuticals, Inc., acquired PPI-California, from SkyePharma Holding, Inc., which we refer to as the Acquisition. PPI-California was known as SkyePharma, Inc. prior to the Acquisition.

Risks and Uncertainties

The Company is subject to risks common to companies in similar industries and stages of development, including, but not limited to, competition from larger companies, reliance on revenue from few customers and products, new technological innovations, dependence on key personnel, reliance on third-party service providers and vendors, protection of proprietary technology, and compliance with government regulations.

Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has reported net losses of $31.1 million, $42.5 million, and $35.2 million and negative cash flows from operating activities of $20.8 million, $29.2 million and $13.4 million for the years ended December 31, 2009, 2008 and 2007, respectively. As of December 31, 2009, the Company had a net working capital deficit of $2.3 million and stockholders' deficit of $22.0 million. The Company has incurred losses and negative operating cash flow since inception and future losses are anticipated. The Company's continued operations will depend on its ability to raise additional funds through sources such as equity and debt financing and revenues from the commercial sale of EXPAREL. Insufficient funds could require the Company to delay, scale back or eliminate one or more of its research and development programs. The ability of the Company to continue as a going concern is dependent on improving the Company's profitability and cash flow and securing additional financing. While the Company believes in the viability of its strategy to increase revenues and profitability and in its ability to raise additional funds, and believes that the actions presently being taken by the Company provide the opportunity for it to continue as a going concern, there can be no assurance that such financing will be available on acceptable terms, or at all. These consolidated financial statements do not include any adjustments related to the recoverability and classification of asset amounts or the amounts and classification of liabilities that might be necessary if the Company is unable to continue as a going concern.

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation and Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries PPI-California and Pacira Limited. Pacira Limited was incorporated in the United Kingdom and its functional currency is the U.S. dollar. Intercompany accounts and transactions have been eliminated in consolidation.

Although the consolidated financial statements of Pacira reflect the operations of the Company for the year ended December 31, 2007, it had no substantive operations prior to the acquisition of SkyePharma, Inc. on March 24, 2007.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities, including disclosure of contingent assets and contingent liabilities, at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. The Company's critical accounting policies are those that are both most important to the Company's consolidated financial condition and results of operations and require the most difficult, subjective or complex judgments on the part of management in their application, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Because of the uncertainty of factors surrounding the estimates or judgments used in the preparation of the consolidated financial statements, actual results may materially vary from these estimates.

Cash and Cash Equivalents

All highly-liquid investments with maturities of 90 days or less when purchased are considered cash equivalents.

Restricted Cash

As further discussed in Note 10, the Company has entered into a financing agreement with Royalty Securitization Trust I ("RST") for the sale of a royalty interest in its DepoCyt(e) and DepoDur supply revenue and royalties. As part of this financing agreement, the Company and RST maintain a lockbox, where all DepoCyt(e) and DepoDur supply revenue and royalties are received. Commencing on April 1 of every year, the first $2.5 million received in the lockbox is restricted to ensure quarterly payments due to RST under the agreement during the subsequent 12 month period. On March 31 of the subsequent year, the balance of cash in the lockbox, if any, is remitted to Pacira. The RST agreement terminates on December 31, 2014. The royalty interest agreement pertains only to DepoCyt(e) and DepoDur, and does not include revenue related to EXPAREL or any other product candidates.

Credit Risk

The Company performs ongoing credit evaluations of its customers, as warranted, and generally does not require collateral. Revenues from the supply of manufactured product for our commercial partners, royalties, contractual services provided to our collaboration partners and licensing and development fees are primarily derived from major pharmaceutical companies that generally have significant cash resources. Allowances for

doubtful accounts receivable are maintained based on historical payment patterns, aging of accounts receivable and actual write-off history. As of December 31, 2009 and 2008, no allowances for doubtful accounts were deemed necessary by the Company on its trade accounts receivable.

Concentration of Major Customers

The Company's customers are its commercial and collaborative and licensing partners. For the year ended December 31, 2009, the Company's three largest customers accounted for 44%, 23% and 20%, individually, of the Company's net revenues. For the year ended December 31, 2008, the Company's four largest customers accounted for 46%, 20%, 16% and 12%, respectively, of the Company's net revenues. For the year ended December 31, 2007, the Company's two largest customers accounted for 49% and 34%, respectively, of the Company's net revenues. No other individual customers accounted for more than 10% of net revenues. As of December 31, 2009, the Company's three largest customers accounted for 56%, 26% and 13%, respectively, of the Company's trade accounts receivables. As of December 31, 2008, the Company's four largest customers accounted for 29%, 23%, 23% and 12%, individually, of the Company's trade accounts receivables. The Company is dependent on these commercial partners to market and sell DepoCyt(e) and DepoDur, from which a substantial portion of its revenues is derived; therefore, the Company's future revenues from these products are highly dependent on these collaboration and distribution arrangements.

Domestic net revenues for the years ended December 31, 2009, 2008 and 2007 accounted for 52%, 48% and 49% of the Company's net revenues, respectively. Export revenues for the years ended December 31, 2009, 2008 and 2007 accounted for 48%, 52%, and 51% of the Company's net revenues, respectively.

Inventories

Inventories consist of finished goods held for sale and distribution, raw materials and work in process, and are stated at the lower of cost, which includes amounts related to material, labor and overhead, and is determined using the first-in, first-out ("FIFO") method, or market (net realizable) value. The Company periodically reviews its inventory to identify obsolete, slow-moving or otherwise unsalable inventories, and establishes allowances for situations in which the cost of the inventory is not expected to be recovered.

Fixed Assets

Property, plant and equipment are recorded at cost, net of accumulated depreciation and amortization. We review our property, plant and equipment assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

Depreciation of equipment, furniture and fixtures is provided over their estimated useful lives on a straight-line basis. Leasehold improvements are amortized on a straight-line basis over the shorter of their estimated useful lives or the related lease terms. Useful lives by asset category are as follows:

Asset Category	Years
Manufacturing and laboratory equipment	5 to 10 years
Computer equipment and software	1 to 3 years
Office furniture and equipment	5 years
Leasehold improvements	1 to 9 years (up to the lease term)

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

Impairment of Long-Lived Assets

Intangible assets are recorded at cost, net of accumulated amortization. Amortization of intangible assets is provided over their estimated useful lives on a straight-line basis. Management reviews long-lived assets, including fixed assets, for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the assets exceeds the fair value of the assets. Fair value for the Company's long-lived assets is determined using the expected cash flows discounted at a rate commensurate with the risk involved.

Acquired in-Process Research and Development

The Company acquired in-process research and development ("IPR&D") projects as part of the Acquisition (see Note 4). The estimated fair value of IPR&D projects, which had not reached technological feasibility at the date of acquisition and which did not have an alternative future use, were immediately expensed. Accordingly, in 2007, the Company wrote off $12.4 million of acquired IPR&D related to the Acquisition.

Settlement of Trade Payables

During April 2009, the Company initiated a payables settlement program with its trade creditors using various settlement arrangements. As of April 30, 2009, total outstanding unsecured trade payables subject to these settlement arrangements was $14.3 million. These creditors agreed to settle their outstanding balances for an aggregate of $12.5 million resulting in reduction in payables of $1.8 million. The Company has recorded a $1.3 million reduction to the carrying amount of fixed assets and included a $0.4 million gain in other income on the Company's consolidated statement of operations for the year ended December 31, 2009. The remaining $0.1 million additional gain will be recorded as these obligations are paid. As of December 31, 2009, $5.5 million related to these settlement arrangements remained outstanding and was included in accounts payable in the Company's consolidated balance sheet.

Foreign Currencies

Realized gains and losses from foreign currency transactions are reflected in the consolidated statements of operations and were not significant in any period in the years ended December 31, 2009, 2008 or 2007. All foreign currency receivables and payables are measured at the applicable exchange rate at the end of the reporting period.

Income Taxes

The Company uses the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. To the extent a deferred tax asset cannot be recognized under the preceding criteria, allowances are established. As of December 31, 2009 and 2008, all deferred tax assets were fully offset by a valuation allowance.

Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 740, Income Taxes ("ASC 740"), clarifies the accounting for uncertainty in income taxes recognized in the financial

statements. ASC 740 provides that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, based on the technical merits of the position. Income tax positions must meet a more-likely-than-not recognition threshold to be recognized. ASC 740 also provides guidance on measurement, derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The Company adopted these provisions of ASC 740 on January 1, 2007, and the adoption did not have a material impact on its consolidated financial position or results of operations.

The Company accrues interest and penalties, if any, on underpayment of income taxes related to unrecognized tax benefits as a component of income tax expense in its consolidated statements of operations.

Revenue Recognition

Supply Revenue—The Company recognizes revenue from products manufactured and supplied to its commercial partners, when the following four basic revenue recognition criteria under the related accounting guidance are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured. The product can be returned within contracted specified time frames if it does not meet the applicable inspection tests. The Company estimates its return reserves based on its experience of historical return rates.

Royalties—The Company recognizes revenue from royalties based on sales of its products into the marketplace by its commercial partners. Royalties are recognized as earned in accordance with contract terms when they can be reasonably estimated and collectability is reasonably assured. The Company's commercial partners are obligated to report their net product sales and the resulting royalty due to the Company within 60 days from the end of each quarter. Based on historical product sales, royalty receipts and other relevant information, the Company accrues royalty revenue each quarter.

Collaborative licensing and development revenue—The Company recognizes revenue from reimbursements received in connection with feasibility studies and development work for third parties who desire to utilize its DepoFoam extended release drug delivery technology for their products, when the Company's contractual services are performed, provided collectability is reasonably assured. The Company's principal costs under these agreements include its personnel conducting research and development, and its allocated overhead, as well as research and development performed by outside contractors or consultants.

The Company recognizes revenues from non-refundable up-front fees received under collaboration agreements ratably over the performance period as determined under the collaboration agreement (estimated development period in case of development agreements, and contract period or longest patent life in case of supply and distribution agreements). If the estimated performance period is subsequently modified, the Company will modify the period over which the up-front fee is recognized accordingly on a prospective basis. Upon termination of a collaboration agreement, any remaining non-refundable licensing fees received by the Company, which had been deferred, are generally recognized in full. All such recognized revenues are included in collaborative licensing and development revenue in the Company's consolidated statements of operations.

The Company recognizes revenue from milestone payments received under collaboration agreements when earned, provided that the milestone event is substantive, its achievability was not reasonably assured at the inception of the agreement, the Company has no further performance obligations relating to the event, and collectability is reasonably assured. If these criteria are not met, the Company recognizes milestone payments ratably over the remaining period of the Company's performance obligations under the collaboration agreement.

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

All such recognized revenues are included in collaborative licensing and development revenue in the Company's consolidated statements of operations. All of the milestone payments received in 2009, 2008 and 2007 are recognized ratably over the period of the Company's performance obligations.

Research and Development Expenses

Research and development expenses consist of costs associated with products being developed internally, and include related personnel expenses, laboratory supplies, active pharmaceutical ingredients, manufacturing supplies, facilities costs, preclinical and clinical trial costs, patent costs, including related legal expenses, and other outside service fees. The Company expenses research and development costs as incurred. A significant portion of the Company's development activities are outsourced to third parties, including contract research organizations. In such cases, the Company may be required to make estimates of related service fees to be accrued.

Per Share Data

Net loss per share is determined in accordance with the two-class method. This method is used for computing basic net loss per share when companies have issued securities other than common stock that contractually entitle the holder to participate in dividends and earnings of the Company. Under the two-class method, net loss is allocated between common shares and other participating securities based on their participation rights in both distributed and undistributed earnings. The Company's Series A convertible preferred stock are participating securities, since the stockholders are entitled to share in dividends declared by the board of directors with the common stock based on their equivalent common shares.

Basic net loss per share is computed by dividing net loss available (attributable) to common stockholders by the weighted average number of shares of common stock outstanding during the period. Because the holders of the Series A Convertible Preferred Stock are not contractually required to share in the Company's losses, in applying the two-class method to compute basic net loss per common share no allocation to preferred stock was made for the years ended December 31, 2009, 2008, and 2007.

Diluted net loss per share is calculated by dividing net loss available (attributable) to common stockholders as adjusted for the effect of dilutive securities, if any, by the weighted average number of common stock and dilutive common stock outstanding during the period. Potential common shares include the shares of common stock issuable upon the exercise of outstanding stock options and a warrant (using the treasury stock method) and the conversion of the shares of Series A convertible preferred stock (using the more dilutive of the (a) as converted method or (b) the two-class method). Potential common shares in the diluted net loss per share computation are excluded to the extent that they would be anti-dilutive. No potentially dilutive securities are included in the computation of any diluted per share amounts as the Company reported a net loss for all periods presented. Potentially dilutive securities that would be issued upon the conversion of convertible notes, conversion of Series A convertible preferred stock and the exercise of outstanding warrants and stock options, were 77.1 million, 70.7 million and 36.0 million as of December 31, 2009, 2008, and 2007, respectively.

Share-Based Compensation

The Company's share-based compensation programs include grants of stock options to employees, consultants and non-employee directors. The expense associated with these programs is recognized in the Company's consolidated statements of operations based on their fair values as they are earned by the employees, consultants and non-employee directors under the applicable vesting terms.

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Notes to Consolidated Financial Statements—(continued)

The valuation of stock options is an inherently subjective process, since market values are generally not available for long-term, non-transferable stock options. Accordingly, the Company uses an option pricing model to derive an estimated fair value. In calculating the estimated fair value of stock options granted, the Company uses the Black-Scholes option pricing model which requires the consideration of the following variables for purposes of estimating fair value:

- the stock option exercise price;
- the expected term of the option;
- the grant date fair value of the Company's common stock, which is issuable upon exercise of the option;
- the expected volatility of the Company's common stock;
- expected dividends on the Company's common stock; and
- the risk-free interest rate for the expected option term.

Of the variables above, the Company believes that the selection of an expected term and expected stock price volatility are the most subjective. The Company's historical stock option exercise experience does not provide a reasonable basis upon which to estimate expected term. Accordingly, the Company uses a term based on a simplified method, pursuant to SEC Staff Accounting Bulletin No. 107, *Share-based Payment*, for "plain vanilla" options. For calculating stock price volatility, the Company utilizes historical stock prices of publicly traded companies that are similar to Pacira.

The Company estimates the level of award forfeitures expected to occur, and records compensation cost only for those awards that are ultimately expected to vest.

Segment Reporting

The Company currently operates in a single operating segment. The Company generates revenue from various sources that result primarily from its revenue from DepoCyt(e) and DepoDur underlying research and development activities. In addition, financial results are prepared and reviewed by management as a single operating segment.

3. **RECENT ACCOUNTING PRONOUNCEMENTS**

In October 2009, the FASB issued Accounting Standards Update No. 2009-13, "Multiple-Deliverable Revenue Arrangements" ("ASU 2009-13"). ASU 2009-13, amends existing revenue recognition accounting pronouncements that are currently within the scope of ASC Subtopic 605-25. This authoritative guidance provides principles for allocation of consideration among its multiple-elements, allowing more flexibility in identifying and accounting for separate deliverables under an arrangement. ASU 2009-13 introduces an estimated selling price method for valuing the elements of a bundled arrangement if vendor-specific objective evidence or third-party evidence of selling price is not available, and significantly expands related disclosure requirements. This guidance is effective on a prospective basis for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Alternatively, adoption may be on a retrospective basis, and early application is permitted. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated results of operations, financial position or cash flows.

In April 2010, the FASB issued Accounting Standards Update No. 2010-17, "Milestone Method of Revenue Recognition (Topic 605)" ("ASU 2010-17"). This update provides guidance on defining a milestone and

determining when it may be appropriate to apply the milestone method of revenue recognition for research or development transactions. Authoritative guidance on the use of the milestone method did not previously exist. This guidance is effective on a prospective basis for milestones achieved in fiscal years, and interim periods within those years, beginning on or after June 15, 2010. Alternatively, retrospective adoption is permitted for all prior periods. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated results of operations, financial position or cash flows.

Other pronouncements issued by the FASB or other authoritative accounting standards groups with future effective dates are either not applicable or not significant to the consolidated financial statements of the Company.

4. ACQUISITION OF SKYEPHARMA, INC.

Pacira Pharmaceuticals, Inc., a Delaware corporation, is the holding company for a California operating subsidiary of the same name, which we refer to as PPI-California. On the Acquisition Date, MPM Capital, Sanderling Ventures, OrbiMed Advisors, HBM Bioventures, the Foundation for Research and their co-investors, through Pacira Pharmaceuticals, Inc., acquired PPI-California, from SkyePharma Holding, Inc., which is referred to herein as the Acquisition. PPI-California was known as SkyePharma, Inc. prior to the Acquisition. The Investors acquired PPI-California to develop the DepoFoam extended release drug delivery technology and purchase the DepoFoam-based marketed products and product pipeline, most notably EXPAREL, a bupivacaine-based product candidate for postsurgical pain management.

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

The initial purchase price was $19.6 million and was funded from the sale proceeds of Series A convertible preferred stock and common stock of the Company. The results of operations of SkyePharma, Inc., are included in the consolidated financial statements of the Company from the Acquisition Date. The intangible assets acquired were core and developed technology, trademarks and trade names, and IPR&D. Purchased IPR&D totaling $12.4 million was expensed upon the Acquisition because technological feasibility had not been established and no future alternative uses existed for the technology. The components of the purchase price allocation for SkyePharma, Inc. are as follows:

Purchase consideration:	
(in thousands)	
Cash paid to SkyePharma Holding, Inc.	$19,632
Acquisition costs	1,355
Contingent purchase liability	656
Total purchase consideration	$ 21,643
Allocation of purchase price:	
(in thousands)	
Acquired cash	$ 175
Accounts receivable	850
Inventories	1,682
Prepaid expenses and other assets	626
Fixed assets	10,155
In-process research and development	12,400
Acquired intangible assets:	
Core technology	2,900
Developed technology	11,700
Trademarks and trade names	800
Liabilities assumed:	
Royalty interest obligation (see Note 10)	(13,000)
Unfavorable lease obligations	(3,300)
Other liabilities assumed	(3,345)
	$ 21,643

The acquired intangibles consist of core technology, developed technology, and trademarks and trade names. As of the Acquisition Date, the core technology was comprised of the DepoFoam drug delivery technology and the developed technology was comprised of the DepoCyt(e) and DepoDur marketed products. The acquired trademarks and trade names include DepoCyt, DepoCyte, DepoDur and DepoFoam and related intellectual property. The amortization periods for the acquired intangibles are seven to nine years.

At the Acquisition Date, the Company determined that the lease rates associated with the assumed facilities leases were above market rates resulting in a $3.3 million unfavorable lease accrual as of the Acquisition Date. The unfavorable lease accrual, which is recorded in other long-term liabilities in the Company's consolidated balance sheets, is amortized over the remaining terms of the leases.

In addition to the initial $19.6 million purchase price, the Company entered into an earn-out agreement with SkyePharma Holding, Inc. as additional purchase price which was based on Pacira reaching certain revenue milestones following the Acquisition. According to this agreement, Pacira would pay SkyePharma Holding, Inc. certain milestone and royalty payments based on the net revenues of EXPAREL and certain other products from the future yet-to-be-developed biologics product line. The fair value of this contingent obligation was $13.9

million on the Acquisition Date. For business combinations involving contingent consideration (that is, a combination that might result in the acquiring enterprise recognizing additional purchase price in a future period (also referred to as "contingent consideration")), the acquiring enterprise is required to recognize, as if it were a liability, an amount equal to the lesser of: (1) the maximum amount of contingent consideration issuable, and (2) the total amount of negative goodwill. Accordingly, even though the fair value of the contingent consideration was $13.9 million, we recognized only $0.7 million as a contingent purchase liability as of the Acquisition Date. The carrying amount of the contingent purchase liability to SkyePharma Holding, Inc. was $0.7 million as of December 31, 2009 and 2008. The Company has not paid any earn-out to SkyePharma Holding, Inc. for the years ended December 31, 2009, 2008 and 2007.

Had the Acquisition been completed as of the beginning of 2007, the Company's pro forma results for 2007 would have been as follows:

(in thousands, except per share data)	(Unaudited)
Revenue	$ 9,860
Net loss	$ (47,140)
Basic and diluted net loss per common share	$ (9.43)
Basic and diluted weighted average shares	5,000,000

5. FAIR VALUE MEASUREMENTS

Financial assets and financial liabilities are required to be measured and reported on a fair value basis using the following three categories for classification and disclosure purposes:

Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.

Level 2: Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.

Level 3: Unobservable inputs that are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company also considers counterparty credit risk in its assessment of fair value.

The carrying value of financial instruments including cash and cash equivalents, restricted cash, accounts receivable, note receivable, and accounts payable approximate their respective fair values due to the short-term maturities of these instruments and debts. The fair value of our convertible notes (see Note 10) and promissory notes (see Note 10) cannot be ascertained due to their related party nature.

The following table summarizes activity for the embedded derivative, which is valued using a binomial option pricing model, related to our royalty interest arrangement (see Note 10), which is classified as Level 3:

	Years ended December 31,	
	2009	2008
	(In thousands)	
Liability at the beginning of the year	$ 1,034	$ 361
Interest (income) expense	(562)	673
Liability at the end of the year	$ 472	$ 1,034

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

6. INVENTORIES

The components of inventories were as follows:

	December 31,	
	2009	2008
	(in thousands)	
Raw materials	$ 811	$ 915
Work-in-process	48	13
Finished goods	965	1,281
	1,824	2,209
Less provision for excess and obsolete inventory	(95)	(181)
Inventory, net	$1,729	$2,028

7. FIXED ASSETS

Fixed assets, at cost, summarized by major category, consist of the following:

	December 31,	
	2009	2008
	(in thousands)	
Machinery and laboratory equipment	$ 19,413	$16,934
Computer equipment and software	765	760
Office furniture and equipment	167	167
Leasehold improvements	3,809	3,388
Total	24,154	21,249
Less accumulated depreciation	(4,594)	(3,212)
Fixed assets, net	$19,560	$ 18,037

Depreciation expense for the years ended December 31, 2009, 2008 and 2007 was $1.9 million, $2.0 million and $1.5 million, respectively.

8. INTANGIBLE ASSETS

Intangible assets consist of core technology, developed technology and trademarks and trade names acquired in the acquisition of SkyePharma, Inc. (see Note 4). Intangible assets are recorded at cost, net of accumulated amortization. Amortization of intangible assets is provided over their estimated useful lives on a straight-line basis.

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Notes to Consolidated Financial Statements—(continued)

Intangible assets are summarized as follows:

	December 31, 2009	December 31, 2008	Estimated Useful Life
	(In thousands)		
Core Technology			
Gross Amount	$ 2,900	$ 2,900	9 years
Accumulated amortization	(886)	(564)	
Net	2,014	2,336	
Developed Technology			
Gross Amount	11,700	11,700	7 years
Accumulated amortization	(4,596)	(2,925)	
Net	7,104	8,775	
Trademarks and trade names			
Gross Amount	500	500	7 years
Accumulated amortization	(176)	(100)	
Net	324	400	
DepoDur Rights			
Gross Amount	2,058	1,736	Remaining patent life
Accumulated amortization	(322)	(163)	ending November 2018
Net	1,736	1,573	
Intangible assets, net	$ 11,178	$ 13,084	

Amortization expense for intangibles was $2.2 million, $2.2 million and $1.7 million for the years ended December 31, 2009, 2008 and 2007, respectively.

The approximate amortization expense for intangibles subject to amortization is as follows (in thousands):

	Core Technology	Developed Technology	Trademarks and Tradenames	DepoDur Rights	Total
2010	$ 322	$ 1,671	$ 76	$ 196	$ 2,265
2011	322	1,671	76	196	2,265
2012	322	1,671	76	196	2,265
2013	322	1,671	76	196	2,265
2014	322	420	20	196	958
Thereafter	404	—	—	756	1,160
Total	$ 2,014	$ 7,104	$ 324	$ 1,736	$ 11,178

Intangibles are evaluated for potential impairment whenever events or circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recorded to the extent the asset's carrying value is in excess of the fair value of the asset. When fair values are not readily available, the Company estimates fair values using expected discounted future cash flows. During 2008, the Company recorded an impairment loss of $125,000, primarily related to our DepoDur trademark. Such impairment losses are reflected in research and development expenses in the Company's consolidated statements of operations. No impairment loss was recorded in 2009 and 2007.

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

9. OTHER BALANCE SHEET DETAILS

Other current assets consist of the following:

	December 31, 2009	December 31, 2008
	(in thousands)	
Prepaid expenses	$ 761	$ 868
Other	311	308
Total	$1,072	$1,176

Accrued expenses consist of the following:

	December 31, 2009	December 31, 2008
	(in thousands)	
Compensation and benefits	$ 518	$1,085
Lease rent deferral - current portion	1,705	—
Other	1,255	648
	$ 3,478	$ 1,733

10. DEBT AND FINANCING ARRANGEMENTS

The composition of the Company's debt and financing obligations, including accrued interest, is as follows:

	December 31, 2009	December 31, 2008
	(in thousands)	
Related party debt, including accrued interest:		
Convertible notes payable	$ 11,124	$ —
Secured notes payable	11,049	—
	22,173	—
Financing obligations:		
Royalty interest obligation, current portion	1,599	1,443
Royalty interest obligation, long-term portion	3,647	3,618
	5,246	5,061
Total debt and financing obligations	$27,419	$5,061

Convertible Notes Payable

In 2009, the Company sold $10.63 million aggregate principal amount of unsecured convertible promissory notes, or the 2009 Convertible Notes. The 2009 Convertible Notes were issued with detachable warrants to purchase an aggregate of 1.7 million shares of the Company's common stock at an exercise price of $0.25 per share. In recording the transaction, the Company allocated the proceeds of the 2009 Convertible Notes and the warrants based on their relative fair values. Fair value of the warrants was determined using the Black-Scholes valuation model and allocated to additional paid-in capital. It was also determined that the 2009 Convertible

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Notes to Consolidated Financial Statements—(continued)

Notes contained a beneficial conversion feature since the fair value of the common stock issuable upon the conversion of the notes exceeded the value allocated to the notes. We recognized and measured the embedded beneficial conversion feature of each of the 2009 Convertible Notes by allocating a portion of the proceeds equal to the intrinsic value of that feature to additional paid-in capital. The intrinsic value of the beneficial conversion feature was calculated at the commitment date as the difference between the conversion price and the fair value of the securities into which the convertible instruments were convertible.

The 2009 Convertible Notes accrue interest at an annual rate of 5% payable at maturity or at the time of conversion. At the time the 2009 Convertibles Notes were sold, the maturity date was December 31, 2009. In December 2009, the maturity date was extended to December 31, 2010. In connection with entering into the GECC Credit Facility in April 2010, as further described in Note 18, the maturity date was further extended to the earliest of: (1) a sale of the Company, (2) December 31, 2013, and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. Also in connection with entering into the GECC Credit Facility, the holders of the 2009 Convertible Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Convertible Notes were subordinated to the GECC Credit Facility, and (ii) an inter-creditor agreement with the holders of the 2009 Secured Notes and the 2010 Secured Notes, as further described below, whereby the 2009 Convertible Notes were subordinated.

Upon the closing of a Qualified Financing (as defined below), unless the holders of a majority of the aggregate principal amount of all 2009 Convertible Notes have elected Optional Conversion of the 2009 Convertible Notes as described below, all outstanding principal and accrued interest under the 2009 Convertible Notes will automatically convert into shares of the same class and series of capital stock of the Company issued to investors in the Qualified Financing at a conversion price per share equal to the price per share paid by other investors in the Qualified Financing. A “Qualified Financing” means the next sale of preferred stock of the Company (i) with gross proceeds to the Company (including proceeds from any indebtedness of the Company that converts into equity in such financing) of at least $10 million or (ii) that is designated as a “Qualified Financing” by the holders of a majority of the aggregate principal amount of all 2009 Convertible Notes. Additionally, the 2009 Convertible Notes and any unpaid interest may be converted to Series A convertible preferred stock upon the election by the holders of a majority of the aggregate principal amount of all 2009 Convertible Notes with a conversion price paid per share equal to the price per share of Series A convertible preferred stock at the time of conversion (“Optional Conversion”). The warrants have an exercise price per share of $0.25 and will expire on January 21, 2014.

In the event of the completion of a merger or consolidation, sale of all the Company’s assets or common stock or voluntary or involuntary liquidation, prior to full payment of the 2009 Convertible Notes or prior to the time when the 2009 Convertible Notes may be converted, the 2009 Convertible Notes will be due and payable with a control premium and the then outstanding principal and unpaid accrued interest and will be senior to all payments of Company common stock and Series A convertible preferred stock. Additionally, the 2009 Convertible Notes are due on demand in the event of default, litigation that threatens to materially and adversely affect the Company’s business, operations, assets or results of operations, or bankruptcy by the Company.

The value of the warrants has been recorded as a discount to the 2009 Convertible Notes and amortized as a component of interest expense over the original term of the notes. For the year ended December 31, 2009, the amortization of the discount was $268,591 resulting in no remaining balance as of December 31, 2009.

The value of the beneficial conversion feature has been recorded as a discount to the 2009 Convertible Notes and amortized as a component of interest expense over the original term of the notes. For the year ended December 31, 2009, the amortization of the discount was $268,591 resulting in no remaining balance as of December 31, 2009.

The outstanding principal and accrued interest on the 2009 Convertible Notes was $10.6 million and $0.5 million, respectively, as of December 31, 2009 and interest expense associated with these notes was $0.5 million for the year ended December 31, 2009.

Secured Promissory Notes

In June 2009, the Company entered into an agreement with certain of its existing investors to issue $10.63 million in aggregate principal amount of secured notes, or the 2009 Secured Notes. To secure the performance of the Company's obligations under purchase agreement for the 2009 Secured Notes, the Company granted a security interest in all of its assets except the assets that secure the Company's obligations under its agreement with Paul Capital to the investors. On April 30, 2010, the holders of the 2009 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2009 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an intercreditor agreement with the holders of the 2009 Convertible Notes and the 2010 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2009 Secured Notes, and the 2009 Secured Notes agreed to share payments equally with the holders of the 2010 Secured Notes.

The 2009 Secured Notes have an interest rate of 12% per year and all principal and accrued and unpaid interest on the 2009 Secured Notes is due on December 31, 2010. In connection with entering into the GECC Credit Facility, the maturity date was further extended to the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated.

The outstanding principal and accrued interest on the 2009 Secured Notes was $10.6 million and $0.4 million, respectively, as of December 31, 2009 and interest expense associated with these promissory notes was $0.4 million for the year ended December 31, 2009.

Sale of Royalty Interests

In 2000, PPI-California and SkyePharma PLC entered into a Royalty Interests Assignment Agreement ("PLC Royalty Agreement") with an affiliate of Paul Capital Advisors, LLC ("Paul Capital") to raise $30 million. Under the PLC Royalty Agreement, Paul Capital had the right to receive a royalty interest in four of SkyePharma's product sales including product sales of and other payments related to DepoCyt(e) and DepoDur. Payments began for product sales realized on or after January 1, 2003 and continue through December 31, 2014.

In connection with the Acquisition, the PLC Royalty Agreement was amended ("Amended and Restated Royalty Interests Assignment Agreement"). As part of this amendment the responsibility to pay the royalty interest in product sales of DepoCyt(e) and DepoDur were transferred to the Company and the payment to Paul Capital in a "Purchase Option Event" of the Company, as described below, was defined. The net present value of royalties expected to be repaid to Paul Capital (the "royalty interest obligation") was valued at $13.0 million and the embedded derivative, as described below, associated with the Purchase Option Event was valued at $1.4 million.

The Company recorded the royalty interest obligation as a liability in the Company's consolidated balance sheets in accordance with ASC 470-10-25, Sales of Future Revenues. The Company imputes interest expense associated with this liability using the effective interest rate method. The effective interest rate may vary during the term of the agreement depending on a number of factors including the actual sales of DepoCyt(e) and DepoDur and significant estimation, performed quarterly, of certain of the Company's future cash flows related to these products during the remaining term of the Royalty Interests Assignment Agreement which terminates on

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Notes to Consolidated Financial Statements—(continued)

December 31, 2014. Any adjustment to the estimates is reflected in the Company's consolidated statements of operations as interest income (expense). In addition, such cash flows are subject to foreign exchange movements related to sales of DepoCyt(e) and DepoDur denominated in currencies other than U.S. dollars.

The Pacira Royalty Agreement also includes a provision for a "Purchase Option Event." The events include: (1) any change of control, a direct or indirect consequence of which is a material abatement of efforts to develop, market or sell any of the products or reformulated products; or (2) the transfer by the parent of all or substantially all of the parent's consolidated assets; or (3) the transfer by the Company of all or any part of their respective interests in the products or reformulated products, or (4) bankruptcy or other breach or default under the agreement.

In the event a Purchase Option Event occurs, Paul Capital shall have the right, but not the obligation, exercisable within 90 days, to require the Company to repurchase from Paul Capital the Royalty Interests Assignment, for a repurchase price equal to 50% of the cumulative amount of all payments made during the preceding 24 months (calculated from the date of the Purchaser's receipt of the notice from the Company of the Purchase Option Event) multiplied by the number of days from the date of Paul Capital's exercise of such option until December 31, 2014, divided by 365. The Company has determined that Paul Capital's put option meets the criteria to be considered an embedded derivative and should be accounted for as such. The Company recorded a net liability of $1.4 million related to the put option to reflect its estimated fair value as of the Acquisition Date, in accordance with ASC 815, Accounting for Derivatives Instruments and Hedging Activities. The fair value of the embedded derivative was $0.5 million and $1.0 as of December 31, 2009 and 2008, respectively.

The repayment of the Paul Capital liability is supported through a jointly controlled lockbox, where all DepoCyt(e) and DepoDur supply revenue and royalties are received. Commencing April 1 of every year, the first $2.5 million received in the lockbox is restricted to ensure quarterly payments due to Paul Capital under the agreement during the subsequent 12 month period. On March 31 of the subsequent year, the balance of cash in the lockbox, if any, is remitted to Pacira. The PLC Royalty Agreement terminates on December 31, 2014. The PLC Royalty Agreement pertains only to DepoCyt(e) and DepoDur, and does not include revenue related to EXPAREL or any other product candidates. As of December 31, 2009 and 2008, $1.2 million was in the lockbox and included in restricted cash in the Company's consolidated balance sheets.

11. STOCKHOLDERS' EQUITY

Common Stock

In connection with the formation of the Company, we issued in March 2007 an aggregate of five million shares of common stock for total aggregate consideration of $50,000.

Series A Convertible Preferred Stock

In March 2007, the Company entered into a Series A Preferred Stock Purchase Agreement pursuant to which the Company issued and sold an aggregate of 68 million shares of Series A convertible preferred stock in four separate closings held in March 2007, February 2008, July 2008 and October 2008, at a purchase price of $1.25 per share. The aggregate consideration for the shares of Series A convertible preferred stock was $85 million in cash.

Each holder of Series A convertible preferred stock has the right, at the option of the holder at any time, to convert their shares of Series A convertible preferred stock into shares of common stock at a current conversion ratio of one-to-one, subject to adjustment for stock splits, certain capital reorganizations and dilutive stock

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Notes to Consolidated Financial Statements—(continued)

issuances. Each share of the Company's Series A convertible preferred stock will automatically convert into shares of the Company's common stock, at the then effective applicable conversion ratio upon the earlier of: (i) the closing of the sale of the Company's common stock pursuant to a firmly underwritten public offering in which the Company receives gross proceeds of at least $25 million or (ii) the consent of the holders of at least 66 2/3% of the then outstanding shares of Series A convertible preferred stock.

The holders of Series A convertible preferred stock are entitled to receive, when, as and if declared by the Company's board of directors out of legally available funds, non-cumulative dividends in an amount to any dividends declared, paid or set aside on shares of the Company's common stock. As of December 31, 2009, no dividends have been declared by the Company's board of directors.

In the event of any liquidation, dissolution or winding up of the Company, the holders of the Series A convertible preferred stock will be entitled to receive in preference to the holders of the Company's common stock, the amount of their original purchase price per share, plus declared and unpaid dividends, if any. If the assets and funds available to be distributed among the holders of the Series A convertible preferred stock are insufficient to permit the payment to such holders of the full preference, then the entire assets and funds legally available for distribution to such holders shall be distributed ratably based on the total due each holder of the Series A convertible preferred stock. Any remaining assets of the Company will be distributed ratably among the holders of its common stock.

Holders of the Series A convertible preferred stock are entitled to the number of votes they would have upon conversion of their Series A convertible preferred stock into common stock at the then-applicable conversion rate. The holders of Series A convertible preferred stock have been granted certain rights with regard to the election of board members and various other corporate actions.

Warrants

On January 22, 2009, the Company issued warrants in connection with the issuance of the 2009 Convertible Notes (see Note 10). The warrants are convertible into an aggregate of 1.7 million of shares of the Company's common stock at an exercise price of $0.25 per share and will expire on January 21, 2014. The value of the warrants has been recorded as a discount to the 2009 Convertible Notes and amortized as a component of interest expense over the original term of the 2009 Convertible Notes. For the year ended December 31, 2009, the amortization of the discount was $268,591 resulting in no remaining balance as of December 31, 2009.

In addition, on July 2, 2009 the Company issued warrants to the landlord of the Company's two San Diego facilities in connection with amendments to the respective lease agreements that deferred minimum annual rental obligations (see Note 13). The warrants are exercisable for an aggregate of 250,000 shares of Series A convertible preferred stock at a price of $1.25 per share and will expire on the earlier of July 1, 2016 or the fifth anniversary of the consummation of the Company's initial public offering. The value of the warrants was recorded as prepaid interest and is being amortized as a component of interest expense over the deferred rental payment term. For the year ended December 31, 2009, the amortization of the interest was $62,577 resulting in a balance of $141,439 as of December 31, 2009.

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Notes to Consolidated Financial Statements—(continued)

Share-Based Compensation

The Company recognized share-based compensation in its consolidated statements of operations for the years ended December 31, 2009, 2008 and 2007 as follows:

	Years Ended December 31,		
	2009	2008	2007
		(in thousands)	
Selling, general and administrative	$ 349	$ 126	$ 25
Research and development	175	116	55
	$ 524	$ 242	$ 80

Pacira Stock Incentive Plan

Employees and directors have been granted options to purchase common shares under the 2007 Stock Option/Stock Issuance Plan (the "2007 Plan"). The 2007 Plan provides for the grant of options to purchase up to seven million shares of the Company's common stock. The 2007 Plan was amended in April 2008, to, among other things, increase the number of shares of common stock authorized for issuance under the 2007 Plan from seven million shares to 11.475 million shares (see Note 18). Options granted under the 2007 Plan generally expire no later than ten years from the date of grant. The exercise price of incentive stock options must be equal to at least the fair value of the Company's common stock on the date of grant.

The following table summarizes the Company's stock option activity and related information for the period from January 1, 2007 to December 31, 2009:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Term (years)
Outstanding at January 1, 2007			
Granted	6,026,500	$ 0.15	
Exercised	—	—	
Forfeited	(22,296)	0.15	
Expired	(864)	0.15	
Outstanding at December 31, 2007	6,003,340	0.15	9.7
Granted	4,884,900	0.18	
Exercised	(1,153,725)	0.15	
Forfeited	(1,227,118)	0.15	
Expired	(16,668)	0.15	
Outstanding at December 31, 2008	8,490,729	0.17	9.1
Granted	8,000	0.25	
Exercised	(18,916)	0.15	
Forfeited	(7,048,958)	0.17	
Expired	(866,972)	0.15	
Outstanding at December 31, 2009	563,883	$ 0.17	8.2
Exercisable at December 31, 2009	366,508	$ 0.17	7.6
Vested and expected to vest at December 31, 2009	548,083	$ 0.17	7.6

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

The weighted average fair value of options granted for the years ended December 31, 2009, 2008 and 2007 were $0.18, $0.13 and $0.10 per share, respectively. The total fair value of options which vested during 2009, 2008 and 2007 was approximately $0.1 million, $0.2 million and $0.1 million, respectively.

As of December 31, 2009, 9,738,476 shares of common stock were reserved for future grant of stock options. As of December 31, 2009, $39,000 of total unrecognized compensation cost related to non vested stock options is expected to be recognized over the respective vesting terms of each award. The weighted average term of the unrecognized share-based compensation is 2.3 years. As further described in Note 15, unexercised options to purchase an aggregate of 5,138,958 shares of common stock options were cancelled during 2009, which resulted in share-based compensation of $0.5 million.

The fair values of each option grant in 2009, 2008 and 2007 were estimated using the Black-Scholes option pricing model with the following weighted average assumptions:

	Years Ended December 31,		
	2009	2008	2007
Expected dividend yield	None	None	None
Risk free interest rate	2.1-2.7%	1.9-3.8%	3.6-4.9%
Expected volatility	82.0%	78.2%	75.1%
Expected life of options	6.25 years	6.25 years	6.25 years

12. COST OF REVENUES

Cost of revenue consists of the following:

	Years Ended December 31,		
	2009	2008	2007
		(in thousands)	
Cost of supply revenue	$ 9,828	$ 14,467	$ 8,788
Cost of royalties	401	567	382
Cost of collaborative licensing and development revenue	2,072	2,429	322
Total cost of revenues	$ 12,301	$ 17,463	$ 9,492

Cost of supply revenue consists of the manufacturing and allocated overhead costs related to the Company's supply of DepoCyt(e) and DepoDur to its commercial partners. Cost of royalties consists of payments to Research Development Foundation ("RDF") for the use of DepoFoam technology. Cost of collaborative licensing and development revenues consists of the Company's expenses related to feasibility studies and development work for third parties who desire to utilize the Company's DepoFoam extended release drug delivery technology for their products.

13. COMMITMENTS AND CONTINGENCIES

Leases

The Company leases office, research and development, and manufacturing facilities in San Diego, California. The two facilities in San Diego are comprised of the Science Center location and the Torrey Pines location. The leases for both these facilities expire July 2015. Under these leases, the Company is required to pay

certain maintenance expenses in addition to the monthly rent. Rent expense is recognized on a straight-line basis over the lease term for leases that have scheduled rent increases. During 2009, the Company entered into amendments to its real estate leases for the Science Center and Torrey Pines facilities. As part of the lease amendments, the property-owner agreed to defer a portion of the minimum annual rent obligation due from February 1, 2009 to March 31, 2010 in exchange for interest compounded at 10% per annum, and warrants to purchase 250,000 shares of Series A convertible preferred stock with values totaling $141,000 and $63,000 on the Science Center and Torrey Pines facilities, respectively. The total amount of rent deferred will be $438,414 and $2,109,101 for the Torrey Pines and Science Center facilities, respectively. The amounts are to be repaid from April 1, 2010 to September 1, 2011. The warrants are convertible into Series A convertible preferred stock with an exercise price of $1.25 per share and will expire on the earlier of July 1, 2016 or the fifth anniversary of the consummation of the Company's initial public offering. The value of the warrants has been recorded as prepaid interest and is being amortized over the deferred rental payment term. As of December 31, 2009, the balance of the related prepaid interest was $141,000. For the year ended December 31, 2009, the additional interest associated with the deferred payments and amortization of the warrants was $102,000 and $63,000, respectively.

The Company determined that its lease rates associated with the assumed the Torrey Pines and Science Center facilities' leases were in excess of market rates resulting in a $3.3 million unfavorable lease accrual as of the Acquisition Date. The unfavorable lease accrual, which is recorded in other long-term liabilities in the Company's consolidated balance sheets, is amortized over the remaining terms of the leases. The balance of the unfavorable lease accrual as of December 31, 2009 and 2008 was $2.2 million and $2.6 million, respectively. The amortization of the unfavorable lease accrual for 2009, 2008 and 2007 was $0.4 million, $0.4 million and $0.3 million, respectively.

As of December 31, 2009, annual minimum payments due under the Company's office and equipment lease obligations are as follows (in thousands):

2010	$6,215
2011	5,827
2012	4,820
2013	4,968
2014	5,136
Thereafter	3,072
	$30,038

Total rent expense, net of unfavorable lease obligation amortization, under all operating leases for years ended December 31, 2009, 2008 and 2007 was $4.6 million, $4.6 million and $3.5 million, respectively. Deferred rent at December 31, 2009 and 2008 was $1.2 million and $0.9 million, respectively.

Litigation

The Company periodically becomes subject to legal proceedings and claims arising in connection with its business. The ultimate legal and financial liability of the Company in respect to all claims, lawsuits and proceedings cannot be estimated with any certainty. Any outcome, either individually or in the aggregate, is not expected to be material to the Company's consolidated financial position, results of operations, or cash flows.

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Notes to Consolidated Financial Statements—(continued)

14. **INCOME TAXES**

A reconciliation of income taxes at the U.S. federal statutory rate to the provision for income taxes is as follows (in thousands):

	Year ended December 31,		
	2009	2008	2007
		(in thousands)	
Benefit at U.S. federal statutory rate	$(10,901)	$(14,887)	$(12,785)
State taxes—deferred	(1,713)	(1,844)	(1,220)
Increase in valuation allowance	12,916	17,417	9,476
Tax credits	(498)	(1,319)	(377)
In-process research and development	—	—	4,340
Other	196	633	566
Provision for income taxes	$ —	$ —	$ —

Significant components of our deferred tax assets are as follows:

	Year ended December 31,	
	2009	2008
	(in thousands)	
Deferred tax assets:		
Federal and state net operating loss carryforwards	$ 32,321	$ 21,752
Federal and state research credits	2,778	2,234
Depreciation and amortization	1,090	675
Accruals and reserves	8,632	9,125
Deferred revenue	9,302	7,749
Other	332	4
Total gross deferred tax assets	54,455	41,539
Less valuation allowance for deferred tax assets	(54,455)	(41,539)
Net deferred tax assets	$ —	$ —

The valuation allowance for deferred tax assets increased by approximately $12.9 million, $17.4 million and $24.1 million during the years ended December 31, 2009, 2008 and 2007, respectively. Management believes the significant doubt regarding the realization of net deferred tax assets requires a full valuation allowance.

As a result of certain realization requirements of ASC 718, the table of deferred tax assets is required to be reduced by certain deferred tax assets at December 31, 2009 and 2008 that arose directly from tax deductions related to equity compensation in excess of compensation recognized for financial reporting. Through December 31, 2009, the amount of such reduction was not material.

As of December 31, 2009, the Company had federal and state net operating losses of approximately $82.4 and $59.0 million, respectively. The Company also had federal and state research and development tax credit carry-forwards of approximately $2.2 and $0.9 million, respectively. The net operating loss carry-forwards and tax credits will expire at various dates, beginning in 2016, through 2026, if not utilized.

Utilizations of net operating loss and research and development credit carry-forwards may be subject to a substantial annual limitation under Section 382 of the Internal Revenue Code of 1986, as amended, due to ownership change limitations that have occurred previously or that could occur in the future. These ownership

changes may limit the amount of net operating loss and research and development credit carry-forwards that can be utilized annually to offset future taxable income and tax, respectively. An ownership change occurred on March 24, 2007, as a result of the Acquisition. The Company has not conducted a review of whether a change of control has occurred since the Acquisition Date. There also could be additional ownership changes in the future which may result in additional limitations in the utilization of these credits.

As discussed in Note 2 "Summary of Significant Accounting Policies," the Company adopted new accounting principles on accounting for uncertain tax positions in 2007. Under these principles, tax positions are evaluated in a two-step process. The Company first determines whether it is more-likely-than-not that a tax position will be sustained upon examination. If a tax position meets the more-likely-than-not recognition threshold it is then measured to determine the amount of benefit to be recognized in the financial statements. The tax position is measured as the largest amount of benefit that has a greater than 50 percent likelihood of being realized upon ultimate settlement.

At December 31, 2009, the total amount of gross unrecognized tax benefits was not considered significant.

The Company is currently open for audit by the United States Internal Revenue Service and state tax jurisdictions for 2006 through 2009.

15. RETIREMENT PLANS AND OTHER EMPLOYEE BENEFITS

Savings Plan

The Company sponsors a 401(k) savings plan. Under the plan, employees may make contributions to the plan, which are eligible for a discretionary percentage match as defined in the plan and determined by the board of directors. The Company's compensation expense under this plan, representing its employer matching contributions, was $0.3 million for the year ended December 31, 2007. There was no compensation expense under the plan for years ended December 31, 2009 and 2008.

Incentive Bonus Plan

In March 2009, the Company adopted a company sale bonus plan and in March 2010 the Company amended and restated the company sale bonus plan. The company sale bonus plan provides for a potential cash bonus payment to specified employees and consultants, including executive officers, and non-employee directors, in the event of a sale of the Company. Under the company sale bonus plan, upon the closing of a sale transaction that satisfies specified criteria, each participant in the company sale bonus plan would receive either a bonus in an amount equal to a portion of the sale proceeds multiplied by a specified percentage for that participant or a fixed bonus payment. The plan terminates upon the completion of the Company's initial public offering. As a condition to becoming participants under the plan, most of the participants, including all of the Company's executive officers and non-employee directors, agreed to have their existing option grants cancelled. As a result, unexercised options for an aggregate of 5.1 million shares of common stock were cancelled. In addition, certain employees were eligible to receive a retention bonus (equivalent to two weeks of base salary upon receipt of positive data on the EXPAREL Phase 3 clinical trials, or if the Company's board of directors deemed related data to be positive) and a pre-determined percentage of salary in the event of a Company sale. In the fourth quarter of 2009, the Company received positive data on the EXPAREL Phase 3 clinical trials and, accordingly, recorded compensation expense and paid $0.1 million of retention bonuses.

In October 2010, the Company entered into employment agreements with its executive officers. Each of these agreements provides, effective upon the completion of this offering, the executive officer with certain severance benefits in connection with certain terminations of the executive's employment both before and after a change of control.

16. COMMERCIAL PARTNERS AND AGREEMENTS

Sigma -Tau

In December 2002, the Company entered into a supply and distribution agreement with Enzon Pharmaceuticals Inc. regarding the sale of DepoCyt. Pursuant to the agreement, Enzon was appointed the exclusive distributor of DepoCyt in the United States and Canada. In January 2010, Sigma-Tau Pharmaceuticals, Inc., or Sigma-Tau, acquired the rights to sell DepoCyt from Enzon Pharmaceuticals for the United States and Canada. Under the supply and distribution agreement, the Company supplies unlabeled DepoCyt vials to Sigma-Tau for finished packaging by Sigma-Tau. Under these agreements, the Company receives a fixed payment for manufacturing the vials of DepoCyt and a double-digit royalty on sales by Sigma-Tau in the United States and Canada.

Mundipharma International Holdings Limited

In June 2003, the Company entered into an agreement granting Mundipharma International Holdings Limited, or Mundipharma, exclusive marketing and distribution rights to DepoCyte in the European Union and certain other European countries. Under the agreement, as amended, and a separate supply agreement, the Company receives a fixed payment for manufacturing the vials of DepoCyte and a double-digit royalty on sales in the applicable territories by Mundipharma.

EKR Therapeutics Inc.

In August 2007, the Company entered into a licensing, distribution and marketing agreement with EKR Therapeutics, Inc., or EKR, granting them exclusive distribution rights to DepoDur in North America, South America and Central America. Under this agreement, as amended, the Company receives a fixed payment for manufacturing the vials of DepoDur and a double-digit royalty on sales in the applicable territories by EKR.

Flynn Pharmaceuticals Limited

In September 2007, the Company entered into a marketing agreement with Flynn Pharma Limited, or Flynn, granting them exclusive distribution rights to DepoDur in the European Union, certain other European countries, South Africa and the Middle East. Under this agreement and a separate supply agreement with Flynn, the Company provides or procures DepoDur manufacturing supply of finished product for sale in the territories licensed by Flynn, and receives a fixed payment for manufacturing the vials of DepoDur and a double-digit royalty on sales in the applicable territories by Flynn.

Amylin Pharmaceuticals Inc

In March 2008, the Company entered into a development and licensing agreement with Amylin Pharmaceuticals, Inc., or Amylin. Under the development and licensing agreement, the Company provides Amylin with access to its proprietary DepoFoam drug delivery technology to conduct research, feasibility and formulation work, and for the manufacturing of pre-clinical and clinical material for various Amylin products. The Company is entitled to payments from Amylin for its work on the formulation and development of compounds with the DepoFoam technology, its achievement of certain clinical development milestones, its achievement of certain worldwide sales and a tiered royalty based upon sales.

Feasibility Study Agreements with Third Parties

In the ordinary course of its business activities, the Company enters into feasibility study agreements with third parties who desire access to its proprietary DepoFoam extended release drug delivery technology to conduct

research, feasibility and formulation work. Under these agreements, the Company is compensated to perform feasibility testing on a third party product to determine the likelihood of developing a successful formulation of that product using its proprietary DepoFoam extended release drug delivery technology. If successful in the feasibility stage, these programs can advance to a full development contract. Currently, we are actively engaged in two feasibility assessments for third parties.

17. **RELATED PARTY TRANSACTIONS**

During the year ended December 31, 2009, the Company entered into 2009 Convertible Note Agreements and 2009 Secured Note Agreements with certain investors in the Company (see Note 10). The composition of the balances due to these investors, totaling $22.2 million, including accrued interest of $0.9 million, as of December 31, 2009.

In February 2008, the Company entered into a services agreement with Stack Pharmaceuticals Inc., or SPI, an entity controlled by David Stack, the Company's chief executive officer. Pursuant to the agreement, SPI provides the Company with the use of SPI's office facilities which include the use of office space for the Company's employees, office furnishings, phone system, internet connections, printers and other related office amenities such as conference rooms. Pursuant to the agreement, the Company pays SPI $10,500 each month during the term of the services agreement. In addition, during 2008 and 2009, SPI performed various projects for the Company. These projects included a business analysis and commercial recommendation for the Company's DepoDur product, a market research project related to the development of a DepoMethotrexate product, market research and forecasting in support of clinical development of EXPAREL for the potential additional indications of nerve block and epidural administration and reimbursement for access to Datamonitor reports for commercial analysis and partnering discussions regarding EXPAREL. The Company incurred expenses under the SPI agreement of $210,000, $258,000 and $71,000 for the years ended December 31, 2009, 2008 and 2007, respectively. As of December 31, 2009 and 2008, the Company had no outstanding balance payable to SPI.

MPM Asset Management ("MPM"), an investor in the Company, provides clinical management and subscription services to the Company. The Company incurred expenses of $316,000, $30,000 and $0 for the years ended December 31, 2009, 2008 and 2007, respectively. As of December 31, 2009, $88,000 was payable to MPM. The Company had no outstanding balance payable to MPM as of December, 2008.

In April 2010, the Company signed a statement of work for a feasibility study with Rhythm Pharmaceuticals, Inc. The Company earned contract revenue from this statement of work during 2010. MPM and its affiliates are holders of our capital stock. MPM and its affiliates are holders of capital stock of Rhythm Pharmaceuticals, Inc. and a managing director of MPM is a member of the board of directors of Rhythm Pharmaceuticals, Inc.

18. **SUBSEQUENT EVENTS**

The Company has evaluated events through November 1, 2010, the date at which the consolidated financial statements were available to be issued.

2010 Secured Notes

In March 2010, the Company entered into an agreement with certain of its existing investors to issue $15 million in aggregate principal amount of secured notes in a private placement (the "2010 Secured Notes"). To secure the performance of its obligations under the purchase agreement for the 2010 Secured Notes, the

Pacira Pharmaceuticals, Inc.

Notes to Consolidated Financial Statements—(continued)

Company granted a subordinated security interest in substantially all of its assets, including its intellectual property assets, to the investors. The investors purchased the entire $15 million of 2010 Secured Notes in three closings in March, June and September 2010.

The 2010 Secured Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest is due on December 31, 2010. In connection with entering into the GECC Credit Facility as noted below, the maturity date was further extended to the earliest of (1) a sale of the Company; (2) December 16, 2013; and, (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. Also in connection with entering into the GECC Credit Facility, the holders of the 2010 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2010 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an inter-creditor agreement with the holders of the 2009 Convertible Notes and the 2009 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2010 Secured Notes, and the holders of the 2010 Secured Notes agreed to share payments pro rata with the holders of the 2009 Secured Notes.

HBM Secured Notes

On April 30, 2010, the Company entered into a subordinated secured note purchase agreement with entities affiliated with HBM BioVentures, or HBM, to issue $3.75 million in aggregate principal amount of secured notes, or the HBM Secured Notes, in a private placement. Pursuant to the purchase agreement for the HBM Secured Notes, upon written notice delivered to HBM prior to September 30, 2010, HBM purchased an amount of secured notes set forth in the notice. HBM purchased the entire $3.75 million of the HBM Secured Notes in three closings in April, June and September 2010. To secure the performance of its obligations under the purchase agreement for the HBM Secured Notes, the Company granted a subordinated security interest in substantially all of its assets, including its intellectual property assets, other than the assets that secure its obligations under its agreement with Paul Capital. The HBM Secured Notes carry an interest rate of approximately 10% per year. In addition, the HBM Secured Notes require a final payment fee if they are prepaid prior to the maturity date. The maturity date of the HBM Secured Notes is the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the HBM Secured Notes entered into a subordination agreement with GECC pursuant to which the HBM Secured Notes were subordinated to the GECC Credit Facility.

Credit Facility

In April 2010, The Company entered into a credit facility with General Electric Capital Corporation (the “GECC Credit Facility”), with $11.25 million available for borrowing. The Company borrowed an aggregate principal amount of $5.62 million at the closing, $2.81 million on July 1, 2010 and the remaining $2.81 million on September 2, 2010. Each of the term loans under the GECC Credit Facility carries a fixed interest rate of approximately 10% that is payable monthly. The GECC Credit Facility requires no payment of principal for the first year, and then equal principal payments over 24 months until the maturity dates of 3 years from the funding dates. The GECC Credit Facility is secured by a first priority lien on all of the Company’s assets other than the assets that secure its obligations under its agreement with Paul Capital, and is guaranteed in full by certain majority investors of the Company (the “guarantors”).

In connection with any prepayments of term loans under the GECC Credit Facility, the Company’s required to pay, in addition to all principal and accrued and unpaid interest on such term loan, a final payment fee equal to (i) 0.45% of the original principal amount of such term loan if the prepayment is made or required before the one

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Notes to Consolidated Financial Statements—(continued)

year anniversary of such term loan, (ii) 2.25% of the original principal amount of such term loan if the prepayment is made or required on or after the one year anniversary of such term loan but before the two year anniversary of such term loan, and (iii) 3.50% of the original principal amount of such term loan if the prepayment is made or required on or after the two year anniversary of such term loan.

The GECC Credit Facility is guaranteed by the Company and is secured by a first priority lien on all of the assets of both PPI-California and the guarantor, other than the assets that secure its obligations under its agreement with Paul Capital. In addition, the GECC Credit Facility is guaranteed by certain of the Company's investors (other than HBM) on a several and not joint basis which guarantee is limited to each investor's pro rata portion of the outstanding principal and accrued and unpaid interest under the GECC Credit Facility, but in no event to exceed $11.250 million in the aggregate. The obligations of the investors under the guarantee is not triggered until the earlier to occur of (i) thirty days after written notice from the agent that the obligations under the GECC Credit Facility have been accelerated, and (ii) the occurrence of a bankruptcy or insolvency event with respect to the borrower, the Company or any of the investor guarantors. The guarantee by our investors of the GECC Credit Facility also includes covenants that require each such investor to maintain at all times unfunded commitments from its investors in an amount equal to at least one and one-half times the maximum amount which the investor may be obligated for under the investor guarantee, and also includes certain control requirements with respect to such investors.

The GECC Loan and Security Agreement contains events of default including payment default, default arising from the breach of the provisions of the GECC Loan and Security Agreement and related documents or the inaccuracy of representations and warranties, attachment default, judgment default, bankruptcy and insolvency, cross-default provision with respect to other material indebtedness, default based on the unenforceability, invalidity or revocation of a the GECC Loan and Security Agreement or any other related documents (including any guarantee or applicable subordination agreement) or any security interests, the occurrence of a material adverse effect (as defined in the GECC Loan and Security Agreement) and certain changes in control, including if the chief executive officer or chief financial officer of the borrower cease to be involved in the daily operations or management of the business, if certain holders cease to own or control at least 51% of the outstanding capital stock of the Company, if the Company ceases to own or control all the economic and voting rights of the borrower and if the borrower ceases to own or control, directly or indirectly, all of the economic or voting rights of each of its subsidiaries.

The occurrence of an event of default under the GECC Credit Facility could trigger the acceleration of the obligations under the GECC Credit Facility or allow the agent or lenders to exercise other rights and remedies, including rights against the assets which secure the GECC Credit Facility and rights under guarantees provided to support the obligations under the GECC Credit Facility.

The GECC Loan and Security Agreement contains a number of affirmative and restrictive covenants including reporting requirements, compliance with laws, protection of intellectual property and other collateral covenants, and limitations, subject to certain exceptions set forth in the GECC Loan and Security Agreement, on liens and indebtedness, limitations on dispositions, limitations on mergers and acquisitions, limitations on restricted payments and investments, limitations on transactions with the Company's affiliates, limitations on changes in business, limitations on amendments and waivers of certain agreements, and limitations on waivers and amendments to certain agreements, including certain portions of the Paul Capital agreements, the Company's organizational documents, and documents relating to debt that is subordinate to the Company's obligations under the GECC Credit Facility.

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Notes to Consolidated Financial Statements—(continued)

2007 Plan

On September 2, 2010, the Company's board of directors amended its 2007 Plan to increase the number of authorized plan shares to from 11,475,000 to 18,600,750 shares of common stock. This increase was approved by the Company's stockholders in October 2010. Concurrent with the amendment of the 2007 Plan, in September 2010 the board of directors granted stock options to employees, non-employee board members and consultants for an aggregate of 15,577,000 shares of common stock. The stock options have an exercise price of $0.15 per share. In establishing the exercise price, the board of directors relied on a valuation that concluded as of August 31, 2010 the value of the Company's common stock was $0.15 per share.

These stock options may be exercised only upon the completion of an initial public offering prior to December 31, 2012. If an initial public offering is not completed prior to December 31, 2012, then the options automatically cancel. The stock options have a 10-year term, and the option shares vest according to one of the following four schedules:

(i) 75% of the option shares vest on the date of grant, and the remaining 25% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over the 12 month period following the date of grant;

(ii) 50% of the option shares vest on the date of grant, and the remaining 50% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over 24 month period following the date of grant;

(iii) 25% of the option shares vest upon optionee's completion of one year of service to the Company measured from the date of grant, and the remaining 75% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over the 36 month period following the first anniversary of the date of grant; or

(vi) 50% of the option shares vest on the first anniversary of the closing of the Company's initial public offering provided that the optionee remains in service to the Company for such first year and, the remaining 50% of the option shares vest on the second anniversary of the closing of the Company's initial public offering provided that the optionee remains in service to the Company over such second year.

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Condensed Consolidated Balance Sheets (Unaudited)
As of June 30, 2010 and December 31, 2009

	June 30, 2010	December 31, 2009
	(In thousands, except share and per share amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 12,353	$ 7,077
Restricted cash	1,399	1,216
Trade accounts receivable	3,255	1,455
Inventories, net	1,198	1,729
Prepaid expenses and other current assets	726	1,072
Total current assets	18,931	12,549
Fixed assets, net	20,329	19,560
Intangibles, net	10,045	11,178
Other assets, net	935	667
Total assets	$ 50,240	$ 43,954
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 6,522	$ 6,994
Accrued expenses	3,416	3,478
Current portion of royalty interest obligation	1,545	1,599
Current portion of deferred revenue	2,184	2,346
Embedded derivative—royalty interest obligation	474	472
Total current liabilities	14,141	14,889
Related party debt, including accrued interest	37,277	22,173
Long-term debt	5,625	—
Royalty interest obligation, excluding current portion	3,481	3,647
Deferred revenue, excluding current portion	19,337	20,387
Contingent purchase liability	656	656
Deferred rent	1,274	1,177
Other long-term liabilities	2,680	3,060
Total liabilities	84,471	65,989
Commitments and Contingencies		
Stockholders' deficit:		
Preferred stock, par value $0.001, 88,000,000 shares authorized, 68,000,000 issued and outstanding at June 30, 2010 and December 31, 2009	68	68
Common stock, par value $0.001, 120,000,000 shares authorized, 6,178,838 and 6,172,641 shares issued and outstanding at June 30, 2010 and December 31, 2009, respectively	6	6
Additional paid-in capital	86,751	86,739
Accumulated deficit	(121,056)	(108,848)
Total stockholders' deficit	(34,231)	(22,035)
Total liabilities and stockholders' deficit	$ 50,240	$ 43,954

See accompanying notes to condensed consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Condensed Consolidated Statements of Operations (Unaudited)
Six Months Ended June 30, 2010 and 2009

	Six Months Ended June 30,	
	2010	2009
	(in thousands, except share and per share data)	
Revenues:		
Supply revenue	$ 4,383	$ 2,459
Royalties	1,670	1,917
Collaborative licensing and development revenue	1,786	2,586
Total revenues	7,839	6,962
Operating expenses:		
Cost of revenues	6,595	6,104
Research and development	9,775	13,147
Selling, general and administrative	1,712	2,329
Total operating expenses	18,082	21,580
Loss from operations	(10,243)	(14,618)
Other income (expense)	68	(29)
Interest:		
Interest income	73	43
Interest (expense)	(1,499)	(519)
Royalty interest obligation	(607)	(1,021)
Net loss	$ (12,208)	$ (16,144)
Net loss per common share:		
Basic and diluted net loss per share	$ (1.98)	$ (2.62)
Weighted average shares outstanding—basic and diluted	6,177,742	6,158,644

See accompanying notes to condensed consolidated financial statements.

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Condensed Consolidated Statement of Stockholders' Deficit (Unaudited)
Six Months Ended June 30, 2010

	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount			
				(in thousands)			
Balances, January 1, 2010	68,000	$ 68	6,173	$ 6	$ 86,739	$ (108,848)	$(22,035)
Exercise of stock options			6		1		1
Share-based compensation					11		11
Net loss	—	—	—	—	—	(12,208)	(12,208)
Balances, June 30, 2010	68,000	$ 68	6,179	$ 6	$86,751	$(121,056)	$ (34,231)

See accompanying notes to condensed consolidated financial statements.

Pacira Pharmaceuticals, Inc.

Condensed Consolidated Statement of Cash Flows (Unaudited)
Six Months Ended June 30, 2010 and 2009

	Six Months Ended June 30,	
	2010	2009
	(in thousands)	
Operating activities:		
Net loss	$ (12,208)	$ (16,144)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	2,045	2,095
Amortization of other assets and unfavorable lease obligation	(45)	(190)
Amortization of note discounts and warrants	69	258
Share-based compensation	11	513
Change in royalty interest obligation	(220)	98
Embedded derivative fair value adjustment	2	78
Changes in operating assets and liabilities:		
Restricted cash	(183)	(675)
Trade accounts receivable	(1,800)	890
Inventories	531	(211)
Other current assets	276	515
Accounts payable	(230)	1,172
Other liabilities	740	591
Deferred revenue	(1,212)	(897)
Deferred rent	97	170
Net cash provided by (used in) operating activities	(12,127)	(11,737)
Investing activities—Purchase of fixed assets	(1,923)	(4,660)
Financing activities:		
Proceeds from exercise of stock options	1	1
Proceeds from convertible notes	—	10,625
Proceeds from secured promissory notes	14,063	—
Proceeds from credit facility	5,625	—
Financing costs	(363)	(16)
Net cash provided by (used in) financing activities	19,326	10,610
Net increase (decrease) in cash and cash equivalents	5,276	(5,787)
Cash and cash equivalents, beginning of period	7,077	12,386
Cash and cash equivalents, end of period	$ 12,353	$ 6,599
Supplemental cash flow information		
Cash paid for interest	$ 1,153	$ 864
Value of warrants issued with convertible debt and beneficial conversion feature	—	537
Non cash investing and financing activities –		
Accrued fixed asset purchases	$ —	$ 1,592

See accompanying notes to condensed consolidated financial statements.

Pacira Pharmaceuticals Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)

1. BUSINESS

Pacira Pharmaceuticals Inc. and its subsidiaries (collectively, the "Company" or "Pacira") is an emerging specialty pharmaceutical company focused on the development, commercialization and manufacture of proprietary pharmaceutical products, based on its proprietary DepoFoam drug delivery technology, for use in hospitals and ambulatory surgery centers.

The Company was incorporated in Delaware under the name Blue Acquisition Corp. in December 2006 and changed its name to Pacira, Inc. in June 2007. In October 2010, the Company changed its name to Pacira Pharmaceuticals, Inc. Pacira Pharmaceuticals, Inc. is the holding company for the Company's California operating subsidiary of the same name, which we refer to as PPI-California. The consolidated financial statements include the Company's wholly owned subsidiaries PPI-California and Pacira Limited.

Risks and Uncertainties

The Company is subject to risks common to companies in similar industries and stages of development, including, but not limited to, competition from larger companies, reliance on revenue from few customers and products, new technological innovations, dependence on key personnel, reliance on third-party service providers and vendors, protection of proprietary technology, and compliance with government regulations.

Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has reported net losses of $12.2 million, and $16.1 million and negative cash flows from operating activities of $12.1 million and $11.7 million for the six months ended June 30, 2010 and 2009, respectively. As of June 30, 2010, the Company had a stockholders' deficit of $34.2 million. The Company has incurred losses and negative operating cash flow since inception and future losses are anticipated. The Company's continued operations will depend on its ability to raise additional funds through sources such as equity and debt financing and revenues from commercial sale of EXPAREL. Insufficient funds could require the Company to delay, scale back or eliminate one or more of its research and development programs. The ability of the Company to continue as a going concern is dependent on improving the Company's profitability and cash flow and securing additional financing. While the Company believes in the viability of its strategy to increase revenues and profitability and in its ability to raise additional funds, and believes that the actions presently being taken by the Company provide the opportunity for it to continue as a going concern, there can be no assurance that such financing will be available on acceptable terms, or at all. These condensed consolidated financial statements do not include any adjustments related to the recoverability and classification of asset amounts or the amounts and classification of liabilities that might be necessary if the Company is unable to continue as a going concern.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation and Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries PPI-California and Pacira Limited. Pacira Limited was incorporated in the United Kingdom and its functional currency is the U.S. dollar. Intercompany accounts and transactions have been eliminated in consolidation. The consolidated financial statements for the interim periods included herein are unaudited; however, they contain all adjustments (consisting of only normal recurring adjustments) which, in the opinion of

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

management, are necessary to present fairly the consolidated financial position of the Company as of June 30, 2010, and the results of its operations and cash flows for the six months ended June 30, 2010 and 2009. The results of operations for the interim periods are not necessarily indicative of results that may be expected for any other interim period or for the full year. These interim financial statements should be read in conjunction with the audited annual consolidated financial statements and notes thereto included elsewhere in the registration statement.

The consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States, or GAAP, in accordance with the rules and regulations of the Securities and Exchange Commission for interim reporting. Pursuant to such rules and regulations, certain information and footnote disclosures normally included in complete annual financial statements have been condensed or omitted. The accounts of all wholly-owned subsidiaries are included in the consolidated financial statements. All intercompany balances and transactions have been eliminated in consolidation. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported and the disclosure of contingent assets and liabilities. Estimates are used for, among other things, the valuation of assets acquired, valuation of common and preferred stock and stock-based compensation, unbilled revenue, customer credits and the valuation of deferred taxes. Estimates are also used to determine the remaining economic lives and recoverability of fixed assets and intangible assets. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. Actual results could differ from those estimates.

Concentration of Major Customers

The Company's customers are its commercial and collaborative and licensing partners. For the six months June 30, 2010, the Company's four largest customers accounted for 48%, 23%, 13%, and 12%, individually, of the Company's net revenues. For the six months ended June 30, 2009, the Company's three largest customers accounted for 35%, 28%, and 23%, respectively, of the Company's net revenues. No other individual customers accounted for more than 10% of net revenues. As of June 30, 2010, the Company's three largest customers accounted for 42%, 36% and 17%, respectively, of the Company's trade accounts receivables. As of December 31, 2009, the Company's three largest customers accounted for 56%, 26% and 13%, respectively, of the Company's trade accounts receivables. The Company is dependent on these commercial partners to market and sell DepoCyt(e) and DepoDur, from which a substantial portion of its revenues are derived; therefore, the Company's future revenues from these products are highly dependent on these collaboration and distribution arrangements.

Domestic net revenues for the six months ended June 2010 and 2009 accounted for 50% and 58% of the Company's net revenues, respectively. Export revenues for the six months ended June 2010 and 2009 accounted for 50% and 42% of the Company's net revenues, respectively.

Per Share Data

Net loss per share is determined in accordance with the two-class method. This method is used for computing basic net loss per share when companies have issued securities other than common stock that contractually entitle the holder to participate in dividends and earnings of the Company. Under the two-class method, net loss is allocated between common shares and other participating securities based on their participation rights in both distributed and undistributed earnings. The Company's Series A preferred stock are participating securities, since the stockholders are entitled to share in dividends declared by the board of directors with the common stock based on their equivalent common shares.

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

Basic net loss per share is computed by dividing net loss available (attributable) to common stockholders by the weighted average number of shares of common stock outstanding during the period. Because the holders of the Series A Convertible Preferred Stock are not contractually required to share in the Company's losses, in applying the two-class method to compute basic net loss per common share no allocation to preferred stock was made for the years ended December 31, 2009, 2008, and 2007.

Diluted net loss per share is calculated by dividing net loss available (attributable) to common stockholders as adjusted for the effect of dilutive securities, if any, by the weighted average number of common stock and dilutive common stock outstanding during the period. Potential common shares include the shares of common stock issuable upon the exercise of outstanding stock options and a warrant (using the treasury stock method) and the conversion of the shares of Series A convertible preferred stock (using the more dilutive of the (a) as converted method or (b) the two-class method). Potential common shares in the diluted net loss per share computation are excluded to the extent that they would be anti-dilutive. No potentially dilutive securities are included in the computation of any diluted per share amounts as the Company reported a net loss for all periods presented. Potentially dilutive securities that would be issued upon the conversion of convertible notes, conversion of preferred stock and the exercise of outstanding warrants and stock options, were 77.3 million at June 30, 2010 and 76.9 million at June 30, 2009.

3. **RECENT ACCOUNTING PRONOUNCEMENTS**

In October 2009, the FASB issued Accounting Standards Update No. 2009-13, "Multiple-Deliverable Revenue Arrangements" ("ASU 2009-13"). ASU 2009-13, amends existing revenue recognition accounting pronouncements that are currently within the scope of Accounting Standards Codification, or ASC, Subtopic 605-25. This authoritative guidance provides principles for allocation of consideration among its multiple-elements, allowing more flexibility in identifying and accounting for separate deliverables under an arrangement. ASU 2009-13 introduces an estimated selling price method for valuing the elements of a bundled arrangement if vendor-specific objective evidence or third-party evidence of selling price is not available, and significantly expands related disclosure requirements. This guidance is effective on a prospective basis for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Alternatively, adoption may be on a retrospective basis, and early application is permitted. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated results of operations, financial position or cash flows.

In April 2010, the FASB issued Accounting Standards Update No. 2010-17, "Milestone Method of Revenue Recognition (Topic 605)" ("ASU 2010-17"). This update provides guidance on defining a milestone and determining when it may be appropriate to apply the milestone method of revenue recognition for research or development transactions. Authoritative guidance on the use of the milestone method did not previously exist. This guidance is effective on a prospective basis for milestones achieved in fiscal years, and interim periods within those years, beginning on or after June 15, 2010. Alternatively, retrospective adoption is permitted for all prior periods. The Company is currently evaluating the impact that the adoption of this guidance will have on its consolidated results of operations, financial position or cash flows.

Other pronouncements issued by the FASB or other authoritative accounting standards groups with future effective dates are either not applicable or not significant to the consolidated financial statements of the Company.

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

4. FAIR VALUE MEASUREMENTS

Financial assets and financial liabilities are required to be measured and reported on a fair value basis using the following three categories for classification and disclosure purposes:

Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.

Level 2: Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.

Level 3: Unobservable inputs that are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company also considers counterparty credit risk in its assessment of fair value.

The carrying value of financial instruments including cash and cash equivalents, restricted cash, accounts receivable, note receivable, and accounts payable approximate their respective fair values due to the short-term maturities of these instruments and debts. The fair value of our convertible notes (see Note 6) and promissory notes (see Note 6) cannot be ascertained due to their related party nature.

The following table summarizes activity for the embedded derivative related to our royalty interest arrangement, which is classified as Level 3:

	Six months ended	
	June 30, 2010	June 30, 2009
	(in thousands)	
Liability at the beginning of the period	$ 472	$ 1,034
Interest expense	2	78
Liability at the end of the period	$ 474	$1,112

5. INVENTORIES

The components of inventories were as follows:

	June 30, 2010	December 31, 2009
	(in thousands)	
Raw materials	$ 788	$ 811
Work-in-process	50	48
Finished goods	455	965
	1,293	1,824
Less provision for excess and obsolete inventories	(95)	(95)
Inventories, net	$1,198	$ 1,729

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

6. DEBT AND FINANCING ARRANGEMENTS

The composition of the Company's debt and financing obligations, including accrued interest, is as follows:

	June 30, 2010	December 31, 2009
	(in thousands)	
Related party debt, including accrued interest:		
Convertible notes	$ 11,388	$ 11,124
2009 Secured notes	11,681	11,049
2010 Secured notes	11,366	—
HBM Secured Notes	2,842	—
	37,277	22,173
Long-term debt:		
GECC Credit Facility	5,625	—
Financing obligations:		
Royalty interest obligation, current portion	1,545	1,599
Royalty interest obligation, long-term portion	3,481	3,647
	5,026	5,246
Total debt and financing obligations	$ 47,928	$ 27,419

2010 Financings:

2010 Secured Notes In March 2010, the Company entered into an agreement with certain of its existing investors to issue $15.0 million in aggregate principal amount of secured notes in a private placement (the "2010 Secured Notes"). To secure the performance of its obligations under the purchase agreement for the 2010 Secured Notes, the Company granted a subordinated security interest in substantially all of its assets, including its intellectual property assets, to the investors. The investors purchased the entire $15 million of 2010 Secured Notes in three closings in March, June and September 2010.

The 2010 Secured Notes have an interest rate of 5% per year and all principal and accrued and unpaid interest is due on December 31, 2010. In connection with entering into the GECC Credit Facility as noted below, the maturity date was extended to the earliest of (1) a sale of the Company; (2) December 16, 2013; and, (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. Also in connection with entering into the GECC Credit Facility, the holders of the 2010 Secured Notes entered into (i) a subordination agreement with GECC pursuant to which the 2010 Secured Notes were subordinated to the GECC Credit Facility, and (ii) an inter-creditor agreement with the holders of the 2009 Convertible Notes and the 2009 Secured Notes whereby the 2009 Convertible Notes were subordinated to the 2010 Secured Notes, and the 2010 Secured Notes agreed to share payments equally with the holders of the 2009 Secured Notes.

The outstanding principal and accrued interest on the 2010 Secured Notes was $11.3 million and $0.1 million, respectively, as of June 30, 2010, and interest expense associated with these notes was $0.1 million for the six months ended June 30, 2010.

HBM Secured Notes On April 30, 2010, the Company entered into a subordinated secured note purchase agreement with entities affiliated with HBM BioVentures, or HBM, to issue $3.75 million in aggregate principal amount of secured notes, or the HBM Secured Notes, in a private placement. Pursuant to the purchase agreement for the HBM Secured Notes, upon written notice to HBM delivered to HBM prior to September 30, 2010, HBM

purchased an amount of secured notes set forth in the notice. HBM purchased the entire $3.75 million of the HBM Secured Notes in three closings in April, June and September 2010. To secure the performance of our obligations under the purchase agreement for the HBM Secured Notes, the Company granted a subordinated security interest in substantially all of its assets, including its intellectual property assets, other than the assets that secure its obligations under its agreement with RST. The HBM Secured Notes carry an interest rate of approximately 10% per year. In addition, the HBM Secured Notes require a final payment fee if they are prepaid prior to the maturity date. The maturity date of the HBM Secured Notes is the earliest of (1) a sale of the Company, (2) December 16, 2013 and (3) 91 days after the date that all obligations under the GECC Credit Facility are paid in full and the GECC Credit Facility is terminated. On April 30, 2010, the holders of the HBM Secured Notes entered into a subordination agreement with GECC pursuant to which the HBM Secured Notes were subordinated to the GECC Credit Facility.

The outstanding principal and accrued interest on the credit facilities was $2.8 million and $0.03 million, respectively, as of June 30, 2010, and interest expense associated with these notes was $0.03 million for the six months ended June 30, 2010.

Credit Facility

In April 2010, the Company entered into a credit facility with General Electric Capital Corporation (the "GECC Credit Facility"), with $11.25 million available for borrowing. The Company borrowed an aggregate principal amount of $5.63 million at the closing, $2.81 million on July 1, 2010 and the remaining $2.81 million on September 2, 2010. Each of the term loans under the GECC Credit Facility carries a fixed interest rate of approximately 10% that is payable monthly. The GECC Credit Facility requires no payment of principal for a year, and then equal principal payments over 24 months until the maturity dates of three years from the funding dates. The GECC Credit Facility is secured by a first priority lien on all of the Company's assets other than the assets that secure its obligations under its agreement with RST, and is guaranteed in full by certain majority investors of the Company (the "guarantors").

In connection with any prepayments of term loans under the GECC Credit Facility, the Company is required to pay, in addition to all principal and accrued and unpaid interest on such term loan, a final payment fee equal to (i) 0.45% of the original principal amount of such term loan if the prepayment is made or required before the one year anniversary of such term loan, (ii) 2.25% of the original principal amount of such term loan if the prepayment is made or required on or after the one year anniversary of such term loan but before the two year anniversary of such term loan, and (iii) 3.50% of the original principal amount of such term loan if the prepayment is made or required on or after the two year anniversary of such term loan.

The GECC Credit Facility is guaranteed by the Company and is secured by a first priority lien on all of the assets of both PPI-California and the guarantor, other than the assets that secure its obligations under its agreement with RST. In addition, the GECC Credit Facility is guaranteed by certain of the Company's investors (other than HBM) on a several and not joint basis which guarantee is limited to each investor's pro rata portion of the outstanding principal and accrued and unpaid interest under the GECC Credit Facility, but in no event to exceed $11.25 million in the aggregate. The obligations of the investors under the guarantee is not triggered until the earlier to occur of (i) thirty days after written notice from the agent that the obligations under the GECC Credit Facility have been accelerated, and (ii) the occurrence of a bankruptcy or insolvency event with respect to the borrower, the Company or any of the investor guarantors. The guarantee by the Company's investors of the GECC Credit Facility also includes covenants that require each such investor to maintain at all times unfunded commitments from its investors in an amount equal to at least one and one-half times the maximum amount which the investor may be obligated for under the investor guarantee, and also includes certain control requirements with respect to such investors.

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

The GECC Loan and Security Agreement contains events of default including payment default, default arising from the breach of the provisions of the GECC Loan and Security Agreement and related documents or the inaccuracy of representations and warranties, attachment default, judgment default, bankruptcy and insolvency, cross-default provision with respect to other material indebtedness, default based on the unenforceability, invalidity or revocation of a the GECC Loan and Security Agreement or any other related documents (including any guarantee or applicable subordination agreement) or any security interests, the occurrence of a material adverse effect (as defined in the GECC Loan and Security Agreement) and certain changes in control, including if the chief executive officer or chief financial officer of the borrower cease to be involved in the daily operations or management of the business, if certain holders cease to own or control at least 51% of the outstanding capital stock of the Company, if the Company ceases to own or control all the economic and voting rights of the borrower and if the borrower ceases to own or control, directly or indirectly, all of the economic or voting rights of each of its subsidiaries.

The occurrence of an event of default under the GECC Credit Facility could trigger the acceleration of the obligations under the GECC Credit Facility or allow the agent or lenders to exercise other rights and remedies, including rights against the assets which secure the GECC Credit Facility and rights under guarantees provided to support the obligations under the GECC Credit Facility.

The GECC Loan and Security Agreement contains a number of affirmative and restrictive covenants including reporting requirements, compliance with laws, protection of intellectual property and other collateral covenants, and limitations, subject to certain exceptions set forth in the GECC Loan and Security Agreement, on liens and indebtedness, limitations on dispositions, limitations on mergers and acquisitions, limitations on restricted payments and investments, limitations on transactions with our affiliates, limitations on changes in business, limitations on amendments and waivers of certain agreements, and limitations on waivers and amendments to certain agreements, including certain portions of the Paul Capital agreements, our organizational documents, and documents relating to debt that is subordinate to our obligations under the GECC Credit Facility.

The outstanding principal and accrued interest on the GECC Credit Facility was $5.63 million as of June 30, 2010, and interest expense associated with this facility was $0.1 million for the six months ended June 30, 2010.

7. **RELATED PARTY TRANSACTIONS**

During the six months ended June 30, 2010 and 2009, the Company entered into debt arrangements with certain investors in the Company (see Note 6). The composition of the balances due to these investors totaling $37.3 million and $22.2 million, including accrued interest of $2.0 million and $0.9 million, as of June 30, 2010 and December 31, 2009.

Stack Pharmaceuticals, Inc (“SPI”), an entity controlled by David M. Stack, our Chief Executive Officer, provides the Company use of its office facilities, which includes the use of office space for our employees, office furnishings, phone system, internet connections, printers and other related office amenities such as conference rooms. In addition, SPI also provides market research services. Pursuant to a new agreement signed in August, 2010, SPI will provide consulting services and commercial leadership related to EXPAREL regarding the development of strategic plans and analyses for the commercialization of EXPAREL, support in the development of documents, data and materials for investor and commercial partner presentations and documents, and commercial leadership in support of our website. The Company incurred expenses of $103,000 and $95,000 for the six months ended June 30, 2010 and 2009, respectively. The Company had no outstanding balance payable to SPI as of June 30, 2010 and December 31, 2009.

Pacira Pharmaceuticals, Inc.

Notes to Condensed Consolidated Financial Statements (Unaudited)—(continued)

MPM Asset Management ("MPM"), an investor in the Company, provides clinical management and subscription services to the Company. The Company incurred expenses of $191,000 and $127,000 for the six months ended June 30, 2010 and 2009, respectively. The Company had outstanding balances payable to MPM of $84,000 and $88,000 as of June 30, 2010 and December 31, 2009, respectively.

In April 2010, the Company signed a statement of work for a feasibility study with Rhythm Pharmaceuticals, Inc. The Company earned contract revenue from this statement of work during 2010. MPM and its affiliates are holders of our capital stock. MPM and its affiliates are holders of the capital stock of Rhythm Pharmaceuticals, Inc. and a managing director of MPM is a member of the board of directors of Rhythm Pharmaceuticals, Inc. The Company incurred expenses of $134,000 for the six months ended June 30, 2010. As of June 30, 2010 an amount of $75,000 was payable to Rhythm Pharmaceuticals, Inc.

8. SUBSEQUENT EVENTS

The Company has evaluated events through November 1, 2010, the date at which the interim unaudited condensed consolidated financial statements were available to be issued.

2007 Plan

On September 2, 2010, the Company's board of directors amended its 2007 Plan to increase the number of authorized plan shares to from 11,475,000 to 18,600,750 shares of common stock. This increase was approved by our stockholders in October 2010. Concurrent with the amendment of the 2007 Plan, in September 2010 the board of directors granted stock options to employees, non-employee board members and consultants for an aggregate of 15,577,000 shares of the Company's common stock. The stock options have an exercise price of $0.15 per share. In establishing the exercise price, the board of directors relied on a valuation that concluded as of August 31, 2010 the value of the Company's common stock was $0.15 per share.

These stock options may be exercised only upon the completion of an initial public offering prior to December 31, 2012. If our initial public offering is not completed prior to December 31, 2012, then the options automatically cancel in accordance with their terms. The stock options have a 10-year term, and the option shares vest according to one of the following four schedules:

(i) 75% of the option shares vest on the date of grant, and the remaining 25% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over the 12 month period following the date of grant;

(ii) 50% of the option shares vest on the date of grant, and the remaining 50% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over the 24 month period following the date of grant;

(iii) 25% of the option shares vest upon the optionee's completion of one year of service to the Company measured from the date of grant, and the remaining 75% of the option shares vest in equal successive monthly installments upon the optionee's completion of each month of service over the 36 month period following the first anniversary of the date of grant; or

(vi) 50% of the option shares vest on the first anniversary of the closing of the Company's initial public offering provided that the optionee remains in service to the Company for such first year and, the remaining 50% of the option shares vest on the second anniversary of the closing of the Company's initial public offering provided that the optionee remains in service to the Company over such second year.

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Shares

Common Stock

Prospectus

,

Barclays Capital **Piper Jaffray**

Wedbush PacGrow Life Sciences **Brean Murray, Carret & Co.**

Until , which is the date 25 days after the date of this prospectus, all dealers that buy, sell or trade our common stock, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table indicates the expenses to be incurred in connection with the offering described in this Registration Statement, other than underwriting discounts and commissions, all of which will be paid by the Registrant. All amounts are estimated except the Securities and Exchange Commission registration fee and the FINRA filing fee.

	Amount
Securities and Exchange Commission registration fee	$ 6,150
FINRA filing fee	9,125
The NASDAQ Global Market listing fee	100,000
Accountants' fees and expenses	*
Legal fees and expenses	*
Blue Sky fees and expenses	*
Transfer Agent's fees and expenses	*
Printing and engraving expenses	*
Miscellaneous	*
Total Expenses	$ *

* To be filed by amendment

Item 14. Indemnification of Directors and Officers

Section 102 of the General Corporation Law of the State of Delaware permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our restated certificate of incorporation that will become effective upon the completion of this offering provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as director, notwithstanding any provision of law imposing such liability, except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Our restated certificate of incorporation provides that we will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (other than an

action by or in the right of Pacira) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of Pacira, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom, if such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. Our restated certificate of incorporation provides that we will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of Pacira to procure a judgment in our favor by reason of the fact that the Indemnitee is or was, or has agreed to become, a director or officer of Pacira, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee or, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of Pacira, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to us, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by us against all expenses (including attorneys' fees) actually and reasonably incurred in connection therewith. Expenses must be advanced to an Indemnitee under certain circumstances.

We intend to enter into indemnification agreements with each of our directors and our executive officers. These indemnification agreements may require us, among other things, to indemnify our directors and executive officers for some expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by a director or executive officer in any action or proceeding arising out of his service as one of our directors or executive officers, or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

In the underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us with the meaning of the Securities Act of 1933, as amended, against certain liabilities.

Item 15. Recent Sales of Unregistered Securities.

Set forth below is information regarding all securities sold by us within the past three years. Also included is the consideration, if any, received by us for such shares, options and warrants and information relating to the section of the Securities Act, or rule of the Securities and Exchange Commission, under which exemption from registration was claimed.

(a) Issuances of Securities

In March 2007, in connection with the Acquisition, we issued a total of 5,000,000 shares of common stock at a price per share of $0.01 to HBM BioVentures (Cayman) Ltd., entities affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures, for an aggregate purchase price of $50,000.

In March 2007, February 2008, July 2008 and October 2008, we issued a total of 68,000,000 shares of Series A convertible preferred stock at a price per share of $1.25 to HBM BioVentures (Cayman) Ltd., entities

affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures, for an aggregate purchase price of $85.0 million.

No underwriters were involved in the foregoing issuances of capital stock. The capital stock described in this section (a) of Item 15 was issued to investors in reliance upon the exemption from the registration requirements of the Securities Act, as set forth in Section 4(2) under the Securities Act and, in certain cases, Regulation D promulgated thereunder, relative to transactions by an issuer not involving any public offering, to the extent an exemption from such registration was required.

(b) Issuances of Promissory Notes

In January 2009, we issued convertible promissory notes to the Foundation for Research, HBM BioVentures (Cayman) Ltd., entities affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures. The aggregate principal amount of the notes issued was $10,625,000 and the notes had an annual interest rate of 5%.

In August, September and October 2009, we issued secured promissory notes to the Foundation for Research, HBM BioVentures (Cayman) Ltd., entities affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures. The aggregate principal amount of the notes issued was $9,676,972 and the notes had an annual interest rate of 12%.

In March, June and September 2010, we issued secured promissory notes to HBM BioVentures (Cayman) Ltd., entities affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures. The aggregate principal amount of the notes issued was $15,000,000 and the notes had an annual interest rate of 5%.

In April, June and September 2010, we issued subordinated secured promissory notes to HBM BioVentures (Cayman) Ltd. The aggregate principal amount of the notes issued was $3,750,000 and the notes had annual interest rates between 9.05% and 9.24%.

In April 2010, we issued a subordinated secured promissory note to General Electric Capital Corporation. The principal amount of the note issued was $11,250,000 and the note had an annual interest rate of 9.24%.

No underwriters were involved in the foregoing issuances of promissory notes. The promissory notes described in this section (b) of Item 15 were issued to investors in reliance upon the exemption from the registration requirements of the Securities Act, as set forth in Section 4(2) under the Securities Act and, in certain cases, Regulation D promulgated thereunder, relative to transactions by an issuer not involving any public offering, to the extent an exemption from such registration was required.

(c) Stock Option Grants

Since inception, we have issued options to certain directors, employees and consultants to purchase an aggregate of 26,587,400 shares of common stock as of September 30, 2010. As of September 30, 2010, options to purchase 1,183,213 shares of common stock had been exercised and options to purchase 16,182,011 shares of common stock remained outstanding at a weighted average exercise price of $0.15 per share.

The stock options and the common stock issuable upon the exercise of such options as described in this section (b) of Item 15 were issued pursuant to written compensatory plans or arrangements with the Registrant’s directors, employees and consultants in reliance on the exemption provided by Rule 701 promulgated under the Securities Act. All recipients either received adequate information about the Registrant or had access, through employment or other relationships, to such information.

(d) Issuances of Warrants

In January 2009, we issued to HBM BioVentures (Cayman) Ltd., entities affiliated with MPM Capital, entities affiliated with Orbimed Advisors and entities affiliated with Sanderling Ventures warrants to purchase 1,700,000 shares of common stock in connection with the 2009 Convertible Note Financing. The common stock warrants have an exercise price of $0.25 per share.

In June 2009, we issued warrants for an aggregate of 250,000 shares of Series A Preferred Stock to our landlord in connection with a rent deferral.

No underwriters were involved in the foregoing issuances of warrants. The warrants described in this section (d) of Item 15 were issued to investors in reliance upon the exemption from the registration requirements of the Securities Act, as set forth in Section 4(2) under the Securities Act, including Regulation D promulgated thereunder, relative to transactions by an issuer not involving any public offering, to the extent an exemption from such registration was required.

All of the foregoing securities are deemed restricted securities for purposes of the Securities Act. All certificates representing the issued shares of capital stock described in this Item 15 include appropriate legends setting forth that the securities had not been registered and the applicable restrictions on transfer.

Item 16. Exhibits

The exhibits to the registration statement are listed in the Exhibit Index to this registration statement and are incorporated by reference herein.

Item 17. Undertakings

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that, in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For purposes of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) For the purpose of determining liability under the Securities Act of 1933 to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be

deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) For the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

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SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Parsippany, State of New Jersey, on the 1st day of November, 2010.

PACIRA PHARMACEUTICALS, INC.

By: /S/ DAVID STACK
David Stack
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints David Stack and James Scibetta, and each of them, his/her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution for him/her and in his/her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and any subsequent registration statements pursuant to Rule 462 of the Securities Act and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he/she might or could do in person, hereby ratifying and confirming all that each of said attorney-in-fact or his/her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/S/ DAVID STACK David Stack	Director, President and Chief Executive Officer (Principal Executive Officer)	November 1, 2010
/S/ JAMES SCIBETTA James Scibetta	Chief Financial Officer (Principal Financial and Accounting Officer)	November 1, 2010
/S/ FRED MIDDLETON Fred Middleton	Chairman	November 1, 2010
/S/ LUKE EVNIN Luke Evnin	Director	November 1, 2010
/S/ CARL GORDON Carl Gordon	Director	November 1, 2010
/S/ JOHN LONGENECKER John Longenecker	Director	November 1, 2010
/S/ GARY PACE Gary Pace	Director	November 1, 2010
/S/ ANDREAS WICKI Andreas Wicki	Director	November 1, 2010

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EXHIBIT INDEX

Exhibit number	Description
1.1*	Form of Underwriting Agreement
3.1	Amended and Restated Certificate of Incorporation of the Registrant, as amended to date
3.2*	Form of Restated Certificate of Incorporation of the Registrant, to be effective upon the completion of the offering
3.3	Bylaws of the Registrant
3.4*	Form of Amended and Restated Bylaws of the Registrant, to be effective upon the completion of the offering
4.1*	Specimen Certificate evidencing shares of common stock
5.1*	Opinion of Wilmer Cutler Pickering Hale and Dorr LLP
10.1	Second Amended and Restated 2007 Stock Option/Stock Issuance Plan
10.2	Form of Stock Option Agreement under the Second Amended and Restated 2007 Stock Option/Stock Issuance Plan
10.3	Investors' Rights Agreement, dated March 23, 2007, among the Registrant and the parties named therein
10.4*	Assignment Agreement, dated February 9, 1994, amended April 15, 2004, between the Registrant and Research Development Foundation
10.5*	Stock Purchase Agreement, dated March 30, 2007, between SkyePharma, Inc. and the Registrant, including Schedule 1.7 of Disclosure Schedules thereto identifying obligations of Pacira Pharmaceuticals, Inc. to SkyePharma PLC
10.6*	Amended and Restated Royalty Interests Assignment Agreement, dated March 23, 2007, as amended, between SkyePharma, Inc. and Royalty Securitization Trust I
10.7*	Amended and Restated Security Agreement (SKPI), dated March 23, 2007, between SkyePharma, Inc. and Royalty Securitization Trust I
10.8*	Supply Agreement, dated June 30, 2003, between SkyePharma, Inc. and Mundipharma Medical Company
10.9*	Distribution Agreement, dated June 30, 2003, between SkyePharma, Inc. and Mundipharma International Holdings Limited
10.10*	Distribution Agreement, dated July 27, 2005, between SkyePharma, Inc. and Mundipharma International Holdings Limited
10.11*	Co-development, Collaboration and License Agreement, dated January 2, 2003, among Enzon Pharmaceuticals, Inc., Jagotec, AG, SkyePharma, Inc. and SkyePharma PLC
10.12*	Supply and Distribution Agreement, dated December 31, 2002, between Enzon Pharmaceuticals, Inc. and SkyePharma, Inc.
10.13*	DepoCyt Supply and Distribution Agreement, dated December 31, 2002, between SkyePharma, Inc. and Enzon Pharmaceuticals, Inc.
10.14*	Amended and Restated Strategic Licensing, Distribution and Marketing Agreement, dated October 15, 2009, between the Registrant and EKR Therapeutics, Inc.
10.15*	Amended and Restated Supply Agreement, dated October 15, 2009, between the Registrant and EKR Therapeutics, Inc.
10.16*	Strategic Marketing Agreement, dated September 27, 2007, between the Registrant and Flynn Pharma Limited
10.17*	Supply Agreement, dated December 5, 2007, between the Registrant and Flynn Pharma Limited

Exhibit number	Description
10.18*	Development and License Agreement, dated March 31, 2008, between Amylin Pharmaceuticals, Inc. and the Registrant
10.19	Lease Agreement, dated August 17, 1993, amended July 2, 2009, between Pacira Pharmaceuticals, Inc. and HCP TPSP, LLC
10.20	Lease Agreement, dated December 8, 1994, amended July 2, 2009, between Pacira Pharmaceuticals, Inc. and LASDK Limited Partnership
10.21*	Services Agreement, dated March 1, 2009, amended March 5, 2010, between the Registrant and MPM Capital
10.22*	Services Agreement, dated September 15, 2010, between Pacira Pharmaceuticals, Inc. and Stack Pharmaceuticals, Inc.
10.23*	Employment Agreement between the Registrant and David Stack, to be effective upon the completion of the offering
10.24*	Employment Agreement between the Registrant and James Scibetta, to be effective upon the completion of the offering
10.25*	Employment Agreement between the Registrant and Gary Patou, to be effective upon the completion of the offering
10.26*	Employment Agreement between the Registrant and Mark Walters, to be effective upon the completion of the offering
10.27*	Employment Agreement between the Registrant and William Lambert, to be effective upon the completion of the offering
10.28	Loan and Security Agreement, dated April 30, 2010, among Pacira Pharmaceuticals, Inc., General Electric Capital Corporation and the parties named therein
10.29	Promissory Note, dated April 30, 2010, issued by Pacira Pharmaceuticals, Inc. to General Electric Capital Corporation
10.30	Pledge Agreement, dated April 30, 2010, among the Registrant, General Electric Capital Corporation and the parties named therein
10.31	Guaranty Agreement, dated April 30, 2010, between the Registrant and General Electric Capital Corporation
10.32	Intellectual Property Security Agreement, dated April 30, 2010, between Pacira Pharmaceuticals, Inc. and General Electric Capital Corporation
10.33	Form of Warrant to Purchase Series A convertible preferred stock of the Registrant, dated July 2, 2009
10.34	Form of Warrant to purchase common stock of the Registrant, dated January 22, 2009
21.1	Subsidiaries of Registrant
23.1	Consent of J.H. Cohn LLP
23.2*	Consent of Wilmer Cutler Pickering Hale and Dorr LLP (included in Exhibit 5.1)
24.1	Powers of Attorney (included on signature page)

* To be filed by amendment.
+ Confidential treatment requested as to certain portions, which portions have been omitted and filed separately with the Securities and Exchange Commission.

Exhibit 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
BLUE ACQUISITION CORP.

(Pursuant to Sections 241 and 245 of the
General Corporation Law of the State of Delaware)

Blue Acquisition Corp., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**General Corporation Law**"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is Blue Acquisition Corp., and that this corporation was originally incorporated pursuant to the General Corporation Law on December 22, 2006 under the name Blue Acquisition Corp.

2. That the Board of Directors duly adopted resolutions proposing to amend the Certificate of Incorporation of this corporation in accordance with Sections 241 and 245 of the General Corporation Law, declaring said amendment and restatement to be advisable and in the best interests of this corporation, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is Blue Acquisition Corp. (the **"Corporation"**)

SECOND: The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 120,000,000 shares of Common Stock, $0.001 par value per share ("**Common Stock**"), and (ii) 88,000,000 shares of Preferred Stock, $0.001 par value per share (" **Preferred Stock**").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein and as may be designated by resolution of the Board of Directors with respect to any series of Preferred Stock as authorized herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to the Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to the Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers and preferences, and the qualifications and limitations with respect thereto, as stated or expressed herein. Any shares of Preferred Stock that may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law or by the terms of any series of Preferred Stock.

C. SERIES A PREFERRED STOCK

Eighty Eight Million (88,000,000) shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated " **Series A Preferred Stock**" with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "Sections" or "Subsections" in this Part C of this Article Fourth refer to sections and subsections of Part C of this Article Fourth.

1. Dividends.

The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in the Certificate of Incorporation) the holders of the Series A Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each

outstanding share of Series A Preferred Stock in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Series A Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of Series A Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Series A Preferred Stock determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Series A Original Issue Price (as defined below); provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Series A Preferred Stock pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Series A Preferred Stock dividend. The "**Series A Original Issue Price**" shall mean $1.25 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales .

2.1 Payments to Holders of Series A Preferred Stock . In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, and before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series A Original Issue Price, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of Series A Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable pursuant to this sentence is hereinafter referred to as the "**Series A Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1, the holders of shares of Series A Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series A Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of

shares held by each such holder. Notwithstanding anything to the contrary in Section 2.1 above or this Section 2.2, upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred Stock shall be entitled to an amount equal to the greater of (i) the amount determined pursuant to Section 2.1 above or (ii) an amount equal to the portion of the assets of the Company available for distribution to stockholders which such holder would have received if such shares of Series A Preferred Stock had been converted into the number of shares of Common Stock issuable upon conversion thereof immediately prior to such any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a "**Deemed Liquidation Event**" unless the holders of at least two-thirds (66-2/3%) of the outstanding shares of Series A Preferred Stock elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (provided that, for the purpose of this Subsection 2.3.1, all shares of Common Stock issuable upon exercise of Options (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged); or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the "**Merger Agreement**") provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2.

2.4 In the event of a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Series A Preferred Stock no later than the 90th day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Series A Preferred Stock, and (ii) if the holders of at least two-thirds (66-2/3%) of the then outstanding shares of Series A Preferred Stock so request in a written instrument delivered to the Corporation not later than 120 days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation), together with any other assets of the Corporation available for distribution to its stockholders (the "**Available Proceeds**"), to the extent legally available therefor, on the 150th day after such Deemed Liquidation Event, to redeem all outstanding shares of Series A Preferred Stock at a price per share equal to the Series A Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Series A Preferred Stock, the Corporation shall redeem a pro rata portion of each holder's shares of Series A Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. Written notice of the mandatory redemption shall be sent to each holder of record of Series A Preferred Stock not less than 20 days prior to the redemption date, setting forth the shares to be redeemed, the redemption date, redemption price, and the procedures for surrendering certificates representing the shares to be redeemed. On or before the applicable redemption date, each holder of shares of Series A Preferred Stock to be redeemed on such redemption date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 4, shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the redemption notice, and thereupon the redemption price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Series A Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Series A Preferred Stock shall promptly be issued to such

holder. If the redemption notice shall have been duly given, and if on the applicable redemption date the redemption price payable upon redemption of the shares of Series A Preferred Stock to be redeemed on such redemption date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor, then notwithstanding that the certificates evidencing any of the shares of Series A Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Series A Preferred Stock shall cease to accrue after such redemption date and all rights with respect to such shares shall forthwith after the redemption date terminate, except only the right of the holders to receive the redemption price without interest upon surrender of their certificate or certificates therefor. Prior to the distribution or redemption provided for in this Subsection 2.4, the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.4.1 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation.

2.4.2 Allocation of Escrow. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow, the Merger Agreement shall provide that (a) the portion of such consideration that is placed in escrow shall be allocated among the holders of capital stock of the Corporation pro rata based on the amount of such consideration payable to each stockholder (such that each stockholder has the same percentage of the total consideration payable to it placed into escrow) and (b) the portion of such consideration that is not placed in escrow shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 as if the total consideration payable to the stockholders of the Corporation, without deduction for the escrowed amount, were being paid to the stockholders of the Corporation. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable to the stockholders of the Corporation subject to contingencies, the Merger Agreement shall provide that (a) the portion of such consideration that is not subject to any contingencies (the " **Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written

consent of stockholders in lieu of meeting), each holder of outstanding shares of Series A Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Series A Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of the Certificate of Incorporation, holders of Series A Preferred Stock shall vote together with the holders of Common Stock, as a single class.

3.2 Election of Directors. The holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect four (4) directors of the Corporation (the "**Series A Directors**"). Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series A Preferred Stock fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Subsection 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred Stock elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series A Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Subsection 3.2, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.

3.3 Series A Preferred Stock Protective Provisions. At any time when any shares of Series A Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, reorganization, recapitalization, reclassification or otherwise, whether in a single transaction or series of transactions, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the written consent or affirmative vote of the holders of at least two thirds (66-2/3%) of the then outstanding shares of Series A Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class:

(a) liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any Deemed Liquidation Event, or consent to any of the foregoing;

(b) amend, alter or repeal any provision of the Certificate of Incorporation or Bylaws of the Corporation; or alter or change any of the rights, preferences or privileges of the Series A Preferred Stock, or increase or decrease the authorized number of shares of Common Stock or Preferred Stock;

(c) create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks junior to the Series A Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and redemption rights, or increase the authorized number of shares of Series A Preferred Stock or increase the authorized number of shares of any additional class or series of capital stock unless the same ranks junior to the Series A Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and redemption rights;

(d) purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Series A Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof or (iv) as approved by the Board of Directors, including the approval of all of the Series A Directors;

(e) create, or authorize the creation of, or issue, or authorize the issuance of any debt security, or permit any subsidiary to take any such action with respect to any debt security, or incur indebtedness for borrowed money, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following any such action would exceed $10,000,000;

(f) create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary; or effect any acquisition of the capital stock or equity interests of another entity which results in the consolidation of that entity's results of operations or assets or liabilities into results of operations or financial condition of the Corporation required to be reflected in its income statement, statement of cash flows, balance sheet or other financial statements, or make any acquisition of material assets or properties (including intangible assets) of another person or entity;

(g) increase or decrease the authorized number of directors constituting the Board of Directors; or

(h) take any action which would result in the taxation of the holders of the Preferred Stock under Section 305 of the Internal Revenue Code, or any comparable or successor provision.

In addition, at any time when any shares of Series A Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification or otherwise, whether in a single transaction or series of transactions, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the approval of the Board of Directors of the Corporation, including the written consent or affirmative vote of at least two thirds of the members thereof, given in writing or by vote at a meeting: (i) engage in any Deemed Liquidation Event, (ii) incur any obligations described in clause (e) immediately above, or (iii) enter into any transactions involving an Affiliate (as defined below) of the Corporation or in which any such Affiliate has a material direct or indirect interest.

4. Optional Conversion.

The holders of the Series A Preferred Stock shall have conversion rights as follows (the " **Conversion Rights**"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Series A Conversion Price (as defined below) in effect at the time of conversion. The **"Series A Conversion Price"** shall initially be equal to $1.25. Such initial Series A Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Series A Preferred Stock.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Series A Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors of the Corporation. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Series A Preferred Stock to voluntarily convert shares of Series A Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Series A Preferred

Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Series A Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Series A Preferred Stock represented by such certificate or certificates and, if applicable, any event on which such conversion is contingent. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, issue and deliver to such holder of Series A Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof, a certificate for the number (if any) of the shares of Series A Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and payment of any declared but unpaid dividends on the shares of Series A Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Series A Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Series A Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Series A Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Series A Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Series A Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Series A Conversion Price.

4.3.3 Effect of Conversion. All shares of Series A Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate

at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon. Any shares of Series A Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series A Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Series A Conversion Price shall be made for any declared but unpaid dividends on the Series A Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Series A Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Series A Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Series A Conversion Price for Diluting Issues .

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) "**Option**" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) "**Series A Original Issue Date**" shall mean the date on which the first share of Series A Preferred Stock was issued.

(c) "**Convertible Securities**" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) "**Additional Shares of Common Stock**" shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Series A Original Issue Date, other than the following shares of Common Stock, and shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (collectively " **Exempted Securities**"):

(i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Series A Preferred Stock;

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4.7 or 4.8;

(iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation;

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;

(v) shares of Common Stock, Options or Convertible Securities (i) issued to banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transactions or (ii) issued in connection with strategic partnerships and technology licensing arrangements, in each case as approved by the Board of Directors of the Corporation and so long as the principal purpose of such transaction, partnership or arrangement is not equity financing of the Corporation;

(vi) shares of Common Stock, Options or Convertible Securities issued in connection with mergers, acquisitions, consolidations and other business combinations approved by the Board of Directors of the Corporation, and in which the principal purpose of such transaction is not equity financing of the Corporation; or

(v) shares of Common Stock issued in connection with a Qualified IPO (as defined below).

4.4.2 No Adjustment of Series A Conversion Price . No adjustment in the Series A Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the holders

of at least two-thirds (66-2/3%) of the then outstanding shares of Series A Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock .

(a) If the Corporation at any time or from time to time after the Series A Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Series A Conversion Price pursuant to the terms of Subsection 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Series A Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Series A Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Series A Conversion Price to an amount which exceeds the lower of (i) the Series A Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Series A Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Series A Conversion Price pursuant to the terms of Subsection 4.4.4 (either because the consideration per share (determined pursuant to Subsection 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Series A Conversion Price then in effect, or because such Option or Convertible

Security was issued before the Series A Original Issue Date), are revised after the Series A Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Series A Conversion Price pursuant to the terms of Subsection 4.4.4, the Series A Conversion Price shall be readjusted to such Series A Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Series A Conversion Price provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Series A Conversion Price that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Series A Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Series A Conversion Price Upon Issuance of Additional Shares of Common Stock . Subject to the last paragraph of this Subsection 4.4.4, in the event the Corporation shall at any time after the Series A Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the Series A Conversion Price in effect immediately prior to such issue, then the Series A Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP_2" shall mean the Series A Conversion Price in effect immediately after such issue of Additional Shares of Common Stock

(b) "CP_1" shall mean the Series A Conversion Price in effect immediately prior to such issue of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Series A Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP_1 (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP_1); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

Special Ratchet Adjustment. Notwithstanding the foregoing, in the event the Corporation shall at any time after the Series A Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), by issuing additional shares of Series A Preferred Stock without consideration or for a consideration per share less than the applicable Series A Conversion Price in effect immediately prior to such issue, then the Series A Conversion Price shall be reduced, concurrently with such issue, to the consideration per share received by the Corporation for such issue or deemed issue of the Additional Shares of Common Stock resulting from such issuance of additional shares of Series A Preferred Stock; provided that if such issuance or deemed issuance was without consideration, then the Corporation shall be deemed to have received an aggregate of $.001 of consideration for all such Additional Shares of Common Stock issued or deemed to be issued.

4.4.5 Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors of the Corporation.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Series A Conversion Price pursuant to the terms of Subsection 4.4.4, and such issuance dates occur within a period of no more than 90 days from the first such issuance to the final such issuance, then, upon the final such issuance, the Series A Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Series A Original Issue Date effect a subdivision of the outstanding Common Stock, the Series A Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Series A Original Issue Date combine the outstanding shares of Common Stock, the Series A Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series A Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Series A Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Series A Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series A Conversion Price shall be recomputed accordingly as of the close of business on such record date

and thereafter the Series A Conversion Price shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Series A Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Series A Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series A Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Series A Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Series A Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Series A Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Series A Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Series A Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Series A Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Series A Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Series A Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 10 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Series A Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Series A Preferred Stock (but in

any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Series A Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Series A Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Series A Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Series A Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Series A Preferred Stock and the Common Stock. Such notice shall be sent at least 10 days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $25,000,000 of proceeds (net of underwriting discounts and commissions) to the Corporation (a " **Qualified IPO**") or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least two-thirds (66-2/3%) of the then outstanding shares of Series A Preferred Stock (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the " **Mandatory Conversion Time**"), (i) all outstanding shares of Series A Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Series A Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Series A Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Series A Preferred Stock shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Series A Preferred Stock converted pursuant to Section 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5.2. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series A Preferred Stock, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Series A Preferred Stock converted. Such converted Series A Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series A Preferred Stock accordingly.

5A. Special Mandatory Conversion.

5A.1. Trigger Event. In the event that any holder of shares of Series A Preferred Stock does not participate in a Qualified Financing (as defined below) by purchasing in the aggregate, in such Qualified Financing and within the time period specified by the Corporation (provided that the Corporation has sent to each holder of Series A Preferred Stock at least 10 days written notice of, and the opportunity to purchase its Allocated Amount (as defined below) of, the Qualified Financing), such holder's Allocated Amount, then effective upon, subject to, and concurrently with, the consummation of the Qualified Financing, all shares of Series A Preferred Stock held by such holder shall automatically, and without any further action on the part of such holder, be converted into shares of Common Stock at the Series A Conversion Price in effect immediately prior to the consummation of such Qualified Financing. For purposes of determining the number of shares of Series A Preferred Stock owned by a holder, and for determining the number of Offered Securities (as defined below) a holder of Series A Preferred Stock has purchased in a Qualified Financing, all shares of Series A Preferred Stock held by

Affiliates (as defined below) of such holder shall be aggregated with such holder's shares and all Offered Securities purchased by Affiliates of such holder shall be aggregated with the Offered Securities purchased by such holder (provided that no shares or securities shall be attributed to more than one entity or person within any such group of affiliated entities or persons). Such conversion is referred to as a " **Special Mandatory Conversion**".

5A.2. Procedural Requirements. Upon a Special Mandatory Conversion, each holder of shares of Series A Preferred Stock converted pursuant to Subsection 5A.1 shall be sent written notice of such Special Mandatory Conversion and the place designated for mandatory conversion of all such shares of Series A Preferred Stock pursuant to this Section 5A. Upon receipt of such notice, each holder of such shares of Series A Preferred Stock shall surrender such holder's certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Series A Preferred Stock converted pursuant to Subsection 5A.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the time of the Special Mandatory Conversion (notwithstanding the failure of the holder or holders thereof to surrender the certificates for such shares at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5A.2. As soon as practicable after the Special Mandatory Conversion and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series A Preferred Stock so converted, the Corporation shall issue and deliver to such holder, or to such holder's nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Series A Preferred Stock converted. Such converted Series A Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series A Preferred Stock accordingly.

5A.3. Definitions. For purposes hereof, the following definitions shall apply:

5A.3.1 "**Affiliate**" shall mean, with respect to any specified Person, any other Person, directly or indirectly, controls, is controlled by or is under common control with such specified Person, including, without limitation, any entity of which such specified Person is a partner or member, any partner, officer, director, member or employee of such specified Person and any venture capital fund now or hereafter existing of which such specified Person is a partner or member which is controlled by or under common control with one or more general partners of such specified Person or shares the same management company with such specified Person.

5A.3.2 "**Allocated Amount**" shall mean, with respect to any holder of Series A Preferred Stock, the lesser of (a) a number of Offered Securities calculated by multiplying the aggregate number of Offered Securities by a fraction, the numerator of which is equal to the number of shares of Series A Preferred Stock owned by such holder, and the denominator of which is equal to the aggregate number of outstanding shares of Series A Preferred Stock, or (b) the maximum number of Offered Securities that such holder is required to purchase in a Qualified Financing under the Series A Agreement, after giving effect to any cutbacks or limitations established by the Board of Directors and applied on a pro rata basis to all holders of Series A Preferred Stock.

5A.3.3 "**Offered Securities**" shall mean the Series A Preferred Stock of the Corporation set aside by the Board of Directors for purchase by holders of outstanding shares of Series A Preferred Stock in connection with a Qualified Financing, and offered to such holders.

5A.3.4 "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

5A.3.5 "**Qualified Financing**" shall mean the offering and sale of shares of Series A Preferred Stock in the "Second Closing" or the "Third Closing" under the Series A Agreement, unless the holders of at least two-thirds (66-2/3%) of the Series A Preferred Stock elect, by written notice sent to the Corporation at least ten (10) days prior to the consummation of the Qualified Financing, that such transaction not be treated as a Qualified Financing for purposes of this Section 5A.

5A.3.6 "**Series A Agreement**" means the Series A Preferred Stock Purchase Agreement dated as of March 30, 2007 as the same may be amended from time to time, by and among the Company and the purchasers of Series A Preferred Stock identified therein.

6. Redemption. The Series A Preferred Stock is not redeemable by its terms except in accordance with the Deemed Liquidation provisions of Subsection 2.4.

7. Redeemed or Otherwise Acquired Shares. Any shares of Series A Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Series A Preferred Stock following redemption.

8. Waiver. Any of the rights, powers, preferences and other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of Series A Preferred Stock by the affirmative written consent or vote of the holders of at least two-thirds (66-2/3%) of the shares of Series A Preferred Stock then outstanding.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Series A Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH: Subject to any additional vote required by the Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH: Subject to any additional vote required by the Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH: To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ELEVENTH: The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "**Excluded Opportunity**" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Series A Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, "**Covered Persons**"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

TWELFTH: In connection with repurchases by the Corporation of its Common Stock from employees, officers, directors, advisors, consultants or other persons performing services for the Corporation or any subsidiary pursuant to agreements under which the Corporation has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment, Sections 502 and 503 of the California Corporations Code shall not apply in all or in part with respect to such repurchases.

* * *

3. No shares of the Corporation have been issued yet and the Corporation has not received any payment for any of its stock.

4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this corporation's Certificate of Incorporation, has been duly adopted in accordance with Sections 241 and 245 of the General Corporation Law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 23rd day of March, 2007.

By: /s/ Curtis L. Mo
Name: Curtis L. Mo
Title: Secretary

AMENDMENT OF
CERTIFICATE OF INCORPORATION
OF
BLUE ACQUISITION CORP.

Curtis L. Mo hereby certifies that:

1. He is the duly elected Secretary of Blue Acquisition Corp., a Delaware corporation, and he is duly authorized by the Board of Directors to make this certification.

2. Pursuant to Section 242 of the General Corporation Law of the State of Delaware, this Certificate of Amendment of Certificate of Incorporation amends the first Article of the Certificate of Incorporation of this corporation to read in its entirety as follows:

"The name of the Corporation is: Pacira, Inc. (the "Corporation")"

3. The foregoing Certificate of Amendment has been duly adopted by this corporation's Board of Directors and the stockholders in accordance with the applicable provisions of Section 228 and 242 of the General Corporation Law of the State of Delaware.

Curtis L. Mo declares under penalty of perjury under the laws of the State of Delaware that he has read the foregoing certificate and know the contents thereof and that the same is true of his own knowledge.

Dated: May 31, 2007

/s/ Curtis Mo
Curtis L. Mo
Secretary

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
PACIRA, INC.

James Scibetta hereby certifies that:

1. He is the duly elected Secretary of Pacira, Inc., a Delaware corporation, and he is duly authorized by the Board of Directors to make this certification.

2. Pursuant to Section 242 of the General Corporation Law of the State of Delaware, this Certificate of Amendment of Certificate of Incorporation amends the first Article of the Certificate of Incorporation of this corporation to read in its entirety as follows:

"The name of the Corporation is: Pacira Pharmaceuticals, Inc. (the "Corporation")"

3. The foregoing Certificate of Amendment has been duly adopted by this corporation's Board of Directors and the stockholders in accordance with the applicable provisions of Section 228 and 242 of the General Corporation Law of the State of Delaware.

James Scibetta declares under penalty of perjury under the laws of the State of Delaware that he has read the foregoing certificate and know the contents thereof and that the same is true of his own knowledge.

Dated: October 29, 2010

By: /s/ James Scibetta
James Scibetta
Secretary

Exhibit 3.3

BYLAWS

OF

PACIRA, INC.

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ARTICLE I

STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President or, if not so designated, at the principal office of the corporation. The Board of Directors may, in its sole discretion, determine that a meeting shall not be held at any place, but may instead be held solely by means of remote communication in a manner consistent with the General Corporation Law of the State of Delaware.

1.2 Annual Meeting. Unless directors are elected by consent in lieu of an annual meeting, the annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President (which date shall not be a legal holiday in the place where the meeting is to be held). If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and in such case all references in these Bylaws to the annual meeting of the stockholders shall be deemed to refer to such special meeting.

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President, but such special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

1.4 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, if any, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Voting List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in

alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the holders of a majority in voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion or represented by proxy, shall constitute a quorum for the transaction of business. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or, if no stockholder is present, by any officer entitled to preside at or to act as secretary of such meeting. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place, if any, of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders, or to express consent or dissent to corporate action without a meeting, may vote or express such consent or dissent in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote or act for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Secretary of the corporation. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the affirmative vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented and voting on such matter (or if there are two or more classes of stock entitled to vote as separate classes, then in the case of each such class, the holders of a majority in voting power of the stock of that class present or represented and voting on such matter), except when a different vote is required by law, the Certificate of Incorporation or these Bylaws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast on the election.

1.10 Conduct of Meetings.

(a) Chairman of Meeting. Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence by the President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) Rules, Regulations and Procedures. The Board of Directors of the corporation may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

1.11 Action without Meeting.

(a) Taking of Action by Consent. Any action required or permitted to be taken at any annual or special meeting of stockholders of the corporation may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote on such action were present and voted. Except as otherwise provided by the Certificate of Incorporation, stockholders may act by written consent to elect directors; provided, however, that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

(b) Electronic Transmission of Consents. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (A) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (B) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the Board of Directors. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

(c) Notice of Taking of Corporate Action. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the corporation.

ARTICLE II

DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number; Election and Qualification. The number of directors which shall constitute the whole Board of Directors shall be determined from time to time by resolution of the stockholders or the Board of Directors, but in no event shall be less than one. The number of directors may be decreased at any time and from time to time either by the stockholders or by a majority of the directors then in office, but only to eliminate vacancies existing by reason of the death, resignation, removal or expiration of the term of one or more directors. The directors shall be elected at the annual meeting of stockholders by such stockholders as have the right to vote on such election. Directors need not be stockholders of the corporation.

2.3 Enlargement of the Board. The number of directors may be increased at any time and from time to time by the stockholders or by a majority of the directors then in office.

2.4 Tenure. Each director shall hold office until the next annual meeting and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.5 Vacancies. Unless and until filled by the stockholders, any vacancy on the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of such director's predecessor in office, and a director chosen to fill a position resulting from an increase in the number of directors shall hold office until the next annual meeting of stockholders and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.6 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

2.7 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.8 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

2.9 Notice of Special Meetings. Notice of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (i) in person or by telephone at least 24 hours in advance of the meeting, (ii) by sending written notice via reputable overnight courier, telecopy or electronic mail, or delivering written notice by hand, to such director's last known business, home or electronic mail address at least 48 hours in advance of the meeting, or (iii) by sending written notice via first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.10 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.11 Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed pursuant to Section 2.2 of these Bylaws shall constitute a quorum. In the absence of a quorum at any such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.12 Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be sufficient to take any action, unless a different vote is specified by law or the Certificate of Incorporation.

2.13 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee.

2.14 Removal. Except as otherwise provided by the General Corporation Law of the State of Delaware, any one or more or all of the directors may be removed, with or without

cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except that the directors elected by the holders of a particular class or series of stock may be removed without cause only by vote of the holders of a majority of the outstanding shares of such class or series.

2.15 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these Bylaws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these Bylaws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate a subcommittee any or all of the powers and authority of the committee.

2.16 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

ARTICLE III

OFFICERS

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including a Chairman of the Board, a Vice Chairman of the Board, and one or more Vice Presidents, Assistant Treasurers, and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a written resignation to the corporation at its principal office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office.

Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 Chairman of the Board. The Board of Directors may appoint from its members a Chairman of the Board, who need not be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.8 of these Bylaws. Unless otherwise provided by the Board of Directors, the Chairman of the Board shall preside at all meetings of the Board of Directors and stockholders.

3.8 President; Chief Executive Officer. Unless the Board of Directors has designated the Chairman of the Board or another person as the corporation's Chief Executive Officer, the

President shall be the Chief Executive Officer of the corporation. The Chief Executive Officer shall have general charge and supervision of the business of the corporation subject to the direction of the Board of Directors. The President shall perform such other duties and shall have such other powers as the Board of Directors or the Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

3.9 Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.10 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary, (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.11 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these Bylaws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer, (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.12 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

ARTICLE IV

CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Certificates of Stock. Every holder of stock of the corporation shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, certifying the number and class of shares owned by such holder in the corporation. Each such certificate shall be signed by, or in the name of the corporation by, the Chairman or Vice-Chairman, if any, of the Board of Directors, or the President or a Vice President, and the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the corporation. Any or all of the signatures on the certificate may be a facsimile.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these Bylaws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of each certificate representing shares of such class or series of stock, provided that in lieu of the foregoing requirements there may be set forth on the face or back of each certificate representing shares of such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these Bylaws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these Bylaws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders or to express consent (or dissent) to corporate action without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 10 days after the date of adoption of a record date for a consent without a meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders entitled to express consent to corporate action without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first consent is properly delivered to the corporation. If no record date is fixed, the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

ARTICLE V

GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these Bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time stated in such notice, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, the President or the Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability. Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

5.8 Pronouns. All pronouns used in these Bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

ARTICLE VI

AMENDMENTS

6.1 By the Board of Directors. These Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

6.2 By the Stockholders. These Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of the holders of a majority of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at any regular meeting of stockholders, or at any special meeting of stockholders, provided notice of such alteration, amendment, repeal or adoption of new Bylaws shall have been stated in the notice of such special meeting.

Exhibit 10.1

PACIRA, INC.

SECOND AMENDED AND RESTATED

2007 STOCK OPTION/STOCK ISSUANCE PLAN[1]

ARTICLE ONE

GENERAL PROVISIONS

I. PURPOSE OF THE PLAN

This Second Amended and Restated 2007 Stock Option/Stock Issuance Plan is intended to promote the interests of Pacira, Inc., a Delaware corporation, by providing eligible persons in the Corporation's employ or service with the opportunity to acquire a proprietary interest, or otherwise increase their proprietary interest, in the Corporation as an incentive for them to continue in such employ or service.

Capitalized terms herein shall have the meanings assigned to such terms in the attached Appendix.

II. STRUCTURE OF THE PLAN

A. The Plan shall be divided into two (2) separate equity programs:

(1) the Option Grant Program under which eligible persons may, at the discretion of the Plan Administrator, be granted options to purchase shares of Common Stock, and

(2) the Stock Issuance Program under which eligible persons may, at the discretion of the Plan Administrator, be issued shares of Common Stock directly, either through the immediate purchase of such shares or as a bonus for services rendered the Corporation (or any Parent or Subsidiary).

B. The provisions of Articles One and Four shall apply to both equity programs under the Plan and shall accordingly govern the interests of all persons under the Plan.

[1] The Plan was amended and restated on April 17, 2008, to (i) increase the number of shares authorized for issuance under the Plan from 7,000,000 to 11,475,500 and (ii) reflect the amended regulations promulgated under Section 25102(o) of the California Securities Law of 1968, as amended. The Plan was further amended and restated on September 2, 2010 to increase the number of shares authorized for issuance under the Plan from 11,475,500 to 18,600,750.

III. ADMINISTRATION OF THE PLAN

A. The Plan shall be administered by the Board. However, any or all administrative functions otherwise exercisable by the Board may be delegated to the Committee. Members of the Committee shall serve for such period of time as the Board may determine and shall be subject to removal by the Board at any time. The Board may also at any time terminate the functions of the Committee and reassume all powers and authority previously delegated to the Committee.

B. The Plan Administrator shall have full power and authority (subject to the provisions of the Plan) to establish such rules and regulations as it may deem appropriate for proper administration of the Plan and to make such determinations under, and issue such interpretations of, the Plan and any outstanding options or stock issuances thereunder as it may deem necessary or advisable. Decisions of the Plan Administrator shall be final and binding on all parties who have an interest in the Plan or any option grant or stock issuance thereunder.

IV. ELIGIBILITY

A. The persons eligible to participate in the Plan are as follows:

(1) Employees,

(2) non-employee members of the Board or the non-employee members of the board of directors of any Parent or Subsidiary, and

(3) consultants and other independent advisors who provide services to the Corporation (or any Parent or Subsidiary).

B. The Plan Administrator shall have full authority to determine, (i) with respect to the grants made under the Option Grant Program, which eligible persons are to receive such grants, the time or times when those grants are to be made, the number of shares to be covered by each such grant, the status of the granted option as either an Incentive Option or a Non-Statutory Option, the time or times when each option is to become exercisable, the vesting schedule (if any) applicable to the option shares and the maximum term for which the option is to remain outstanding, and (ii) with respect to stock issuances made under the Stock Issuance Program, which eligible persons are to receive such issuances, the time or times when those issuances are to be made, the number of shares to be issued to each Participant, the vesting schedule (if any) applicable to the issued shares and the consideration to be paid by the Participant for such shares.

C. The Plan Administrator shall have the absolute discretion either to grant options in accordance with the Option Grant Program or to effect stock issuances in accordance with the Stock Issuance Program.

V. STOCK SUBJECT TO THE PLAN

A. The stock issuable under the Plan shall be shares of authorized but unissued or reacquired Common Stock. The maximum number of shares of Common Stock which may be issued over the term of the Plan shall not exceed Eleven Million Four Hundred Seventy Thousand (18,600,750) [2] shares.

[2] Increased from (i) 7,000,000 shares to 11,475,500 shares on April 17, 2008 and (ii) 11,475,500 shares to 18,600,750 shares on September 2, 2010.

B. Shares of Common Stock subject to outstanding options shall be available for subsequent issuance under the Plan to the extent (i) the options expire or terminate for any reason prior to exercise in full or (ii) the options are cancelled in accordance with the cancellation-regrant provisions of Article Two. Unvested shares issued under the Plan and subsequently repurchased by the Corporation, at a price per share not greater than the option exercise or direct issue price paid per share, pursuant to the Corporation's repurchase rights under the Plan shall be added back to the number of shares of Common Stock reserved for issuance under the Plan and shall accordingly be available for reissuance through one or more subsequent option grants or direct stock issuances under the Plan.

C. Should any change be made to the Common Stock by reason of any stock split, reverse stock split, stock dividend, recapitalization, combination of shares, reclassification of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Corporation's receipt of consideration, appropriate adjustments shall be made to (i) the maximum number and/or class of securities issuable under the Plan and (ii) the number and/or class of securities and the exercise price per share in effect under each outstanding option in order to prevent the dilution or enlargement of benefits thereunder. The adjustments determined by the Plan Administrator shall be final, binding and conclusive. In no event shall any such adjustments be made in connection with the conversion of one or more outstanding shares of the Corporation's preferred stock into shares of Common Stock.

ARTICLE TWO

OPTION GRANT PROGRAM

I. OPTION TERMS

Each option shall be evidenced by one or more documents in the form approved by the Plan Administrator; provided, however, that each such document shall comply with the terms specified below. Each document evidencing an Incentive Option shall, in addition, be subject to the provisions of the Plan applicable to such options.

A. **Exercise Price**.

(i) The exercise price per share shall be fixed by the Plan Administrator, but shall not be less than one hundred percent (100%) of the Fair Market Value per share of Common Stock on the option grant date.

(ii) The exercise price shall become immediately due upon exercise of the option and shall, subject to the provisions of Section I of Article Four and the documents evidencing the option, be payable in cash or check made payable to the Corporation. Should the Common Stock be registered under Section 12 of the 1934 Act at the time the option is exercised, then the exercise price may also be paid as follows:

(1) in shares of Common Stock held for the requisite period necessary to avoid a charge to the Corporation's earnings for financial reporting purposes and valued at Fair Market Value on the Exercise Date, or

(2) to the extent the option is exercised for vested shares, pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the shares, results in the receipt of cash (or check) by the Corporation.

Except to the extent such sale and remittance procedure is utilized, payment of the exercise price for the purchased shares must be made on the Exercise Date.

B. **Exercise and Term of Options**. Each option shall be exercisable at such time or times, during such period and for such number of shares as shall be determined by the Plan Administrator and set forth in the documents evidencing the option grant. However, no option shall have a term in excess of ten (10) years measured from the option grant date.

C. **Effect of Termination of Service**.

(i) The following provisions shall govern the exercise of any options held by the Optionee at the time of cessation of Service or death:

(1) Should the Optionee cease to remain in Service for any reason other than death, Disability or Misconduct, then the Optionee shall have a period of three (3) months following the date of such cessation of Service during which to exercise each outstanding option held by such Optionee.

(2) Should Optionee's Service terminate by reason of Disability, then the Optionee shall have a period of twelve (12) months following the date of such cessation of Service during which to exercise each outstanding option held by such Optionee.

(3) If the Optionee dies while holding an outstanding option, then the personal representative of his or her estate or the person or persons to whom the option is transferred pursuant to the Optionee's will or the laws of inheritance or the Optionee's designated beneficiary or beneficiaries of that option shall have a twelve (12)-month period following the date of the Optionee's death to exercise such option.

(4) Under no circumstances, however, shall any such option be exercisable after the specified expiration of the option term.

(5) During the applicable post-Service exercise period, the option may not be exercised in the aggregate for more than the number of vested shares for which the option is exercisable on the date of the Optionee's cessation of Service. No additional shares shall vest under the option following the Optionee's cessation of Service, except to the extent (if any) specifically authorized by the Plan Administrator in its sole discretion pursuant to an express written agreement with Optionee. Upon the expiration of the applicable exercise period or (if earlier) upon the expiration of the option term, the option shall terminate and cease to be outstanding for any vested shares for which the option has not been exercised.

(ii) The Plan Administrator shall have the discretion, exercisable either at the time an option is granted or at any time while the option remains outstanding, to:

(1) extend the period of time for which the option is to remain exercisable following Optionee's cessation of Service or death from the limited period otherwise in effect for that option to such greater period of time as the Plan Administrator shall deem appropriate, but in no event beyond the expiration of the option term, and/or

(2) permit the option to be exercised, during the applicable post-Service exercise period, not only with respect to the number of vested shares of Common Stock for which such option is exercisable at the time of the Optionee's cessation of Service but also with respect to one or more additional installments in which the Optionee would have vested under the option had the Optionee continued in Service.

D. **Stockholder Rights**. The holder of an option shall have no stockholder rights with respect to the shares subject to the option until such person shall have exercised the option, paid the exercise price and become the recordholder of the purchased shares.

E. **Unvested Shares**. The Plan Administrator shall have the discretion to grant options which are exercisable for unvested shares of Common Stock. Should the Optionee cease Service while holding such unvested shares, the Corporation shall have the right to repurchase any or all of those unvested shares at a price per share equal to the lower of (i) the exercise price paid per share or (ii) the Fair Market Value per share of Common Stock at the time of Optionee's cessation of Service; provided, however that the repurchase at Fair Market Value shall terminate upon the effective date of the initial public offering of the Common Stock of the Corporation. The terms upon which such repurchase right shall be exercisable (including the period and procedure for exercise and the appropriate vesting schedule for the purchased shares) shall be established by the Plan Administrator and set forth in the document evidencing such repurchase right.

F. **First Refusal Rights**. Until such time as the Common Stock is first registered under Section 12 of the 1934 Act, the Corporation shall have the right of first refusal with respect to any proposed disposition by the Optionee (or any successor in interest) of any shares of Common Stock issued under the Plan. Such right of first refusal shall be exercisable in accordance with the terms established by the Plan Administrator and set forth in the document evidencing such right.

G. **Limited Transferability of Options**. An Incentive Stock Option shall be exercisable only by the Optionee during his or her lifetime and shall not be assignable or transferable other than by will or by the laws of inheritance following the Optionee's death. A Non-Statutory Option may be assigned in whole or in part during the Optionee's lifetime to one or more members of the Optionee's "immediate family" (as such term is defined in Rule 16a-1(e) promulgated under the 1934 Act) or to an intervivos or grantor trust established exclusively for one or more such immediate family members. The assigned portion may only be exercised by the person or persons who acquire a proprietary interest in the Non-Statutory Option pursuant to the assignment. The terms applicable to the assigned portion shall be the same as those in effect for the option immediately prior to such assignment and shall be set forth in such documents issued to the assignee as the Plan Administrator may deem appropriate. Notwithstanding the foregoing, the Optionee may also designate one or more persons as the beneficiary or beneficiaries of his or her outstanding options under the Plan, and those options shall, in accordance with such designation, automatically be transferred to such beneficiary or beneficiaries upon the Optionee's death while holding those options. Such beneficiary or beneficiaries shall take the transferred options subject to all the terms and conditions of the applicable agreement evidencing each such transferred option, including (without limitation) the limited time period during which the option may be exercised following the Optionee's death.

II. INCENTIVE OPTIONS

The terms specified below shall be applicable to all Incentive Options. Except as modified by the provisions of this Section II, all the provisions of Articles One, Two and Four shall be applicable to Incentive Options. Options which are specifically designated as Non-Statutory Options shall not be subject to the terms of this Section II.

A. **Eligibility**. Incentive Options may only be granted to Employees.

B. **Exercise Price**. The exercise price per share shall not be less than one hundred percent (100%) of the Fair Market Value per share of Common Stock on the option grant date.

C. **Dollar Limitation**. The aggregate Fair Market Value of the shares of Common Stock (determined as of the respective date or dates of grant) for which one or more options granted to any Employee under the Plan (or any other option plan of the Corporation or any Parent or Subsidiary) may for the first time become exercisable as Incentive Options during any one (1) calendar year shall not exceed the sum of One Hundred Thousand Dollars ($100,000). To the extent the Employee holds two (2) or more such options which become exercisable for the first time in the same calendar year, the foregoing limitation on the exercisability of such options as Incentive Options shall be applied on the basis of the order in which such options are granted. To the extent an Option designated as an Incentive Stock Option would become exercisable for the first time for an amount in excess of One Hundred Thousand Dollars, the excess amount shall be exercisable as a Non-Statutory Stock Option.

D. **10% Stockholder**. If any Employee to whom an Incentive Option is granted is a 10% Stockholder, then (i) the the exercise price per share shall not be less than one hundred ten percent (110%) of the Fair Market Value per share of Common Stock on the option grant date and (ii) the option term shall not exceed five (5) years measured from the option grant date.

III. CHANGE IN CONTROL

A. None of the outstanding options under the Plan shall vest in whole or in part on an accelerated basis upon the occurrence of a Change in Control, and those options shall be assumable by any successor corporation in the Change in Control. However, the Plan Administrator shall have the discretionary authority to structure one or more options grants under the Plan so that each of those particular options shall automatically accelerate in whole or in part, immediately prior to the effective date of that Change in Control, and become exercisable for all the shares of Common Stock at the time subject to the accelerated portion of such option and may be exercised for any or all of those accelerated shares as fully vested shares of Common Stock.

B. None of the outstanding repurchase rights under the Plan shall terminate on an accelerated basis upon the occurrence of a Change in Control, and those rights shall be assignable to any successor corporation in the Change in Control. However, the Plan Administrator shall have the discretionary authority to structure one or more repurchase rights under the Plan so that those particular rights shall automatically terminate in whole or in part, and the shares of Common Stock subject to those terminated rights shall immediately vest, in the event of a Change in Control.

C. Immediately following the consummation of the Change in Control, all outstanding options under the Plan shall terminate and cease to be outstanding, except to the extent assumed by the successor corporation (or parent thereof) or otherwise continued in full force and effect pursuant to the terms of the Change in Control transaction.

D. Each option which is assumed in connection with a Change in Control or otherwise continued in effect shall be appropriately adjusted, immediately after such Change in Control, to apply to the number and class of securities or cash or other property which would have been issuable to the Optionee in consummation of such Change in Control had the option been exercised immediately prior to such Change in Control. Appropriate adjustments to reflect such Change in Control shall also be made to the exercise price payable per share under each outstanding option, provided the aggregate exercise price payable for such securities shall remain the same. To the extent the actual holders of the Corporation's outstanding Common Stock receive cash consideration for their Common Stock in consummation of the Change in Control, the successor corporation may, in connection with the assumption of the outstanding options under the Plan, substitute one or more shares of its own common stock with a fair market value equivalent to the cash or other property consideration paid per share of Common Stock in such Change in Control transaction.

E. The Plan Administrator shall have full power and authority to structure one or more outstanding options under the Plan so that those options shall vest and become exercisable on an accelerated basis for all or a portion of the shares of Common Stock at the time subject to those options, should the Optionee's Service subsequently terminate by reason of an Involuntary Termination within a designated period following the effective date of a Change in Control transaction. In addition, the Plan Administrator may structure one or more of the Corporation's repurchase rights so that those rights shall immediately terminate on an accelerated basis with respect to all or a portion of the shares held by the Optionee at the time of such Involuntary Termination, and the shares subject to those terminated repurchase rights shall accordingly vest at that time.

F. The portion of any Incentive Option accelerated in connection with a Change in Control or subsequent Involuntary Termination of the Optionee's Service shall remain exercisable as an Incentive Option only to the extent the applicable One Hundred Thousand Dollar ($100,000) limitation is not exceeded. To the extent such dollar limitation is exceeded, the accelerated portion of such option shall be exercisable as a Nonstatutory Option under the Federal tax laws.

G. The outstanding options shall in no way affect the right of the Corporation to adjust, reclassify, reorganize or otherwise change its capital or business structure or to merge, consolidate, dissolve, liquidate or sell or transfer all or any part of its business or assets.

IV. CANCELLATION AND REGRANT OF OPTIONS

The Plan Administrator shall have the authority to effect, at any time and from time to time, with the consent of the affected option holders, the cancellation of any or all outstanding options under the Plan and to grant in substitution therefor new options covering the same or different number of shares of Common Stock but with an exercise price per share based on the Fair Market Value per share of Common Stock on the new option grant date.

ARTICLE THREE

STOCK ISSUANCE PROGRAM

I. STOCK ISSUANCE TERMS

Shares of Common Stock may be issued under the Stock Issuance Program through direct and immediate issuances without any intervening option grants. Each such stock issuance shall be evidenced by a Stock Issuance Agreement which complies with the terms specified below.

A. **Purchase Price**.

(i) The purchase price per share shall be fixed by the Plan Administrator.

(ii) Subject to the provisions of Section I of Article Four, shares of Common Stock may be issued under the Stock Issuance Program for any of the following items of consideration which the Plan Administrator may deem appropriate in each individual instance:

(1) cash or check made payable to the Corporation, or

(2) past services rendered to the Corporation (or any Parent or Subsidiary).

B. **Vesting Provisions**.

(i) Shares of Common Stock issued under the Stock Issuance Program may, in the discretion of the Plan Administrator, be fully and immediately vested upon issuance or may vest in one or more installments over the Participant's period of Service or upon attainment of specified performance objectives.

(ii) Any new, substituted or additional securities or other property (including money paid other than as a regular cash dividend) which the Participant may have the right to receive with respect to the Participant's unvested shares of Common Stock by reason of any stock split, reverse stock split, stock dividend, recapitalization, combination of shares, reclassification of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Corporation's receipt of consideration shall be issued subject to (i) the same vesting requirements applicable to the Participant's unvested shares of Common Stock and (ii) such escrow arrangements as the Plan Administrator shall deem appropriate.

(iii) The Participant shall have full stockholder rights with respect to any shares of Common Stock issued to the Participant under the Stock Issuance Program, whether or not the Participant's interest in those shares is vested. Accordingly, the Participant shall have the right to vote such shares and to receive any regular cash dividends paid on such shares.

(iv) Should the Participant cease to remain in Service while holding one or more unvested shares of Common Stock issued under the Stock Issuance Program or should the performance objectives not be attained with respect to one or more such unvested shares of Common Stock, then those shares shall be immediately surrendered to the Corporation for cancellation, and the Participant shall have no further stockholder rights with respect to those shares. To the extent the surrendered shares were previously issued to the Participant for consideration paid in cash or cash equivalent (including the Participant's purchase-money indebtedness), the Corporation shall repay to the Participant the lower of (i) the cash consideration paid for the surrendered shares or (ii) the Fair Market Value of those shares at the time of Participant's cessation of Service and shall cancel the unpaid principal balance of any outstanding purchase-money note of the Participant attributable to such surrendered shares by the applicable clause (i) or (ii) amount. Notwithstanding the foregoing, if this Section would cause adverse accounting treatment for the Corporation's equity compensation program, the Plan Administrator may, in its sole discretion, waive or delay the surrender and/or repurchase of the unvested shares to minimize or eliminate such adverse accounting treatment.

(v) The Plan Administrator may in its discretion waive the surrender and cancellation of one or more unvested shares of Common Stock (or other assets attributable thereto) which would otherwise occur upon the non-completion of the vesting schedule applicable to those shares. Such waiver shall result in the immediate vesting of the Participant's interest in the shares of Common Stock as to which the waiver applies. Such waiver may be effected at any time, whether before or after the Participant's cessation of Service or the attainment or non-attainment of the applicable performance objectives.

C. **First Refusal Rights**. Until such time as the Common Stock is first registered under Section 12 of the 1934 Act, the Corporation shall have the right of first refusal with respect to any proposed disposition by the Participant (or any successor in interest) of any shares of Common Stock issued under the Stock Issuance Program. Such right of first refusal shall be exercisable in accordance with the terms established by the Plan Administrator and set forth in the document evidencing such right.

II. CHANGE IN CONTROL

Upon the occurrence of a Change in Control, all outstanding repurchase rights under the Stock Issuance Program shall continue in full force and effect and shall be assigned to the successor corporation (or parent thereof), and none of the shares subject to those repurchase rights shall vest on an accelerated basis. However, the Plan Administrator shall have the discretionary authority, exercisable either at the time the unvested shares are issued or any time while the Corporation's repurchase rights with respect to those shares remain outstanding, to provide that those repurchase rights shall automatically terminate in whole or in part on an accelerated basis, and the shares of Common Stock subject to those terminated rights shall immediately vest, in the event the Participant's Service should subsequently terminate by reason of an Involuntary Termination within a designated period following the effective date of the Change in Control transaction.

III. SHARE ESCROW/LEGENDS

Unvested shares may, in the Plan Administrator's discretion, be held in escrow by the Corporation until the Participant's interest in such shares vests or may be issued directly to the Participant with restrictive legends on the certificates evidencing those unvested shares.

ARTICLE FOUR

MISCELLANEOUS

I. FINANCING

The Plan Administrator may permit any Optionee or Participant to pay the option exercise price under the Option Grant Program or the purchase price for shares issued under the Stock Issuance Program by delivering a full-recourse promissory note payable in one or more installments which bears interest at a market rate and is secured by the purchased shares. In no event, however, may the maximum credit available to the Optionee or Participant exceed the sum of (i) the aggregate option exercise price or purchase price payable for the purchased shares (less the par value of those shares) plus (ii) any applicable income and employment tax liability incurred by the Optionee or the Participant in connection with the option exercise or share purchase. With respect to promissory notes issued to officers pursuant to this Section, such notes shall become due and payable immediately prior to the filing of a Registration Statement on Form S-1 (or any successor form).

II. EFFECTIVE DATE AND TERM OF PLAN

A. The Plan shall become effective when adopted by the Board, but no option granted under the Plan may be exercised, and no shares shall be issued under the Plan, until the Plan is approved by the Corporation's stockholders. If such stockholder approval is not obtained within twelve (12) months after the date of the Board's adoption of the Plan, then all options previously granted under the Plan shall terminate and cease to be outstanding, and no further options shall be granted and no shares shall be issued under the Plan. Subject to such limitation, the Plan Administrator may grant options and issue shares under the Plan at any time after the effective date of the Plan and before the date fixed herein for termination of the Plan.

B. The Plan shall terminate upon the earliest of (i) the expiration of the ten (10)-year period measured from the date the Plan is adopted by the Board, (ii) the date on which all shares available for issuance under the Plan shall have been issued as vested shares or (iii) the termination of all outstanding options in connection with a Change in Control. All options and unvested stock issuances outstanding at the time of a clause (i) termination event shall continue to have full force and effect in accordance with the provisions of the documents evidencing those options or issuances.

III. AMENDMENT OF THE PLAN

A. The Board shall have complete and exclusive power and authority to amend or modify the Plan in any or all respects. However, no such amendment or modification shall adversely affect the rights and obligations with respect to options or unvested stock issuances at the time outstanding under the Plan unless the Optionee or the Participant consents to such amendment or modification. In addition, certain amendments may require stockholder approval pursuant to applicable laws and regulations.

B. Options may be granted under the Option Grant Program and shares may be issued under the Stock Issuance Program which are in each instance in excess of the number of shares of Common Stock then available for issuance under the Plan, provided any excess shares actually issued under those programs shall be held in escrow until there is obtained stockholder approval of an amendment sufficiently increasing the number of shares of Common Stock available for issuance under the Plan. If such stockholder approval is not obtained within twelve (12) months after the date the first such excess grants or issuances are made, then (i) any unexercised options granted on the basis of such excess shares shall terminate and cease to be outstanding and (ii) the Corporation shall promptly refund to the Optionees and the Participants the exercise or purchase price paid for any excess shares issued under the Plan and held in escrow, together with interest (at the applicable Short Term Federal Rate) for the period the shares were held in escrow, and such shares shall thereupon be automatically cancelled and cease to be outstanding.

IV. USE OF PROCEEDS

Any cash proceeds received by the Corporation from the sale of shares of Common Stock under the Plan shall be used for general corporate purposes.

V. WITHHOLDING

The Corporation's obligation to deliver shares of Common Stock upon the exercise of any options granted under the Plan or upon the issuance or vesting of any shares issued under the Plan shall be subject to the satisfaction of all applicable income and employment tax withholding requirements.

VI. REGULATORY APPROVALS

The implementation of the Plan, the granting of any options under the Plan and the issuance of any shares of Common Stock (i) upon the exercise of any option or (ii) under the Stock Issuance Program shall be subject to the Corporation's procurement of all approvals and permits required by regulatory authorities having jurisdiction over the Plan, the options granted under it and the shares of Common Stock issued pursuant to it.

VII. NO EMPLOYMENT OR SERVICE RIGHTS

Nothing in the Plan shall confer upon the Optionee or the Participant any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any Parent or Subsidiary employing or retaining such person) or of the Optionee or the Participant, which rights are hereby expressly reserved by each, to terminate such person's Service at any time for any reason, with or without cause.

VIII. FINANCIAL REPORTS

The Corporation shall deliver to each Optionee and Participant such financial and other information as required pursuant to Rule 701 promulgated under the Securities Act of 1933, as amended.

APPENDIX

The following definitions shall be in effect under the Plan:

A. **Board** shall mean the Corporation's Board of Directors.

B. **Change in Control** shall mean a change in ownership or control of the Corporation effected through any of the following transactions:

(i) a merger, consolidation or other reorganization approved by the Corporation's stockholders, unless securities representing more than fifty percent (50%) of the total combined voting power of the voting securities of the successor corporation are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the persons who beneficially owned the Corporation's outstanding voting securities immediately prior to such transaction, or

(ii) a stockholder-approved sale, transfer or other disposition of all or substantially all of the Corporation's assets in complete liquidation or dissolution of the Corporation, or

(iii) the acquisition, directly or indirectly by any person or related group of persons (other than the Corporation or a person that directly or indirectly controls, is controlled by, or is under common control with, the Corporation), of beneficial ownership (within the meaning of Rule 13d-3 of the 1934 Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Corporation's outstanding securities pursuant to a tender or exchange offer made directly to the Corporation's stockholders.

In no event shall any public offering of the Corporation's securities be deemed to constitute a Change in Control.

C. **Code** shall mean the Internal Revenue Code of 1986, as amended.

D. **Committee** shall mean a committee of one (1) or more Board members appointed by the Board to exercise one or more administrative functions under the Plan.

E. **Common Stock** shall mean the Corporation's common stock.

F. **Corporation** shall mean Pacira, Inc., a Delaware corporation, and any successor corporation to all or substantially all of the assets or voting stock of Pacira, Inc. which shall by appropriate action adopt the Plan.

G. **Disability** shall mean the inability of the Optionee or the Participant to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment and shall be determined by the Plan Administrator on the basis of such medical evidence as the Plan Administrator deems warranted under the circumstances.

H. **Employee** shall mean an individual who is in the employ of the Corporation (or any Parent or Subsidiary), subject to the control and direction of the employer entity as to both the work to be performed and the manner and method of performance.

I. **Exercise Date** shall mean the date on which the Corporation shall have received written notice of the option exercise.

J. **Fair Market Value** per share of Common Stock on any relevant date shall be determined in accordance with the following provisions:

(i) If the Common Stock is at the time traded on the Nasdaq National Market, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question, as such price is reported by the National Association of Securities Dealers on the Nasdaq National Market and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(ii) If the Common Stock is at the time listed on any Stock Exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the Stock Exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such exchange and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(iii) If the Common Stock is at the time neither listed on any Stock Exchange nor traded on the Nasdaq National Market, then the Fair Market Value shall be determined by the Plan Administrator after taking into account such factors as the Plan Administrator shall deem appropriate.

K. **Incentive Option** shall mean an option which satisfies the requirements of Code Section 422.

L. **Involuntary Termination** shall mean the termination of the Service of any individual which occurs by reason of:

(i) such individual's involuntary dismissal or discharge by the Corporation for reasons other than Misconduct, or

(ii) such individual's voluntary resignation following (A) a change in his or her position with the Corporation which materially reduces his or her duties and responsibilities or the level of management to which he or she reports, (B) a reduction in his or her level of compensation (including base salary, fringe benefits and target bonus under any corporate-performance based bonus or incentive programs) by more than fifteen percent (15%) or (C) a relocation of such individual's place of employment by more than fifty (50) miles, provided and only if such change, reduction or relocation is effected without the individual's consent.

M. **Misconduct** shall mean the commission of any act of fraud, embezzlement or dishonesty by the Optionee or Participant, any unauthorized use or disclosure by such person of confidential information or trade secrets of the Corporation (or any Parent or Subsidiary), or any other intentional misconduct by such person adversely affecting the business or affairs of the Corporation (or any Parent or Subsidiary) in a material manner. The foregoing definition shall not in any way preclude or restrict the right of the Corporation (or any Parent or Subsidiary) to discharge or dismiss any Optionee, Participant or other person in the Service of the Corporation (or any Parent or Subsidiary) for any other acts or omissions, but such other acts or omissions shall not be deemed, for purposes of the Plan, to constitute grounds for termination for Misconduct.

N. **1934 Act** shall mean the Securities Exchange Act of 1934, as amended.

O. **Non-Statutory Option** shall mean an option not intended to satisfy the requirements of Code Section 422.

P. **Option Grant Program** shall mean the option grant program in effect under the Plan.

Q. **Optionee** shall mean any person to whom an option is granted under the Plan.

R. **Parent** shall mean any corporation (other than the Corporation) in an unbroken chain of corporations ending with the Corporation, provided each corporation in the unbroken chain (other than the Corporation) owns, at the time of the determination, stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

S. **Participant** shall mean any person who is issued shares of Common Stock under the Stock Issuance Program.

T. **Plan** shall mean the Corporation's Amended and Restated 2007 Stock Option/Stock Issuance Plan, as set forth in this document.

U. **Plan Administrator** shall mean either the Board or the Committee acting in its capacity as administrator of the Plan.

V. **Service** shall mean the provision of services to the Corporation (or any Parent or Subsidiary) by a person in the capacity of an Employee, a non-employee member of the board of directors or a consultant or independent advisor, except to the extent otherwise specifically provided in the documents evidencing the option grant.

W. **Stock Exchange** shall mean either the American Stock Exchange or the New York Stock Exchange.

X. **Stock Issuance Agreement** shall mean the agreement entered into by the Corporation and the Participant at the time of issuance of shares of Common Stock under the Stock Issuance Program.

Y. **Stock Issuance Program** shall mean the stock issuance program in effect under the Plan.

Z. **Subsidiary** shall mean any corporation (other than the Corporation) in an unbroken chain of corporations beginning with the Corporation, provided each corporation (other than the last corporation) in the unbroken chain owns, at the time of the determination, stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

AA. **10% Stockholder** shall mean the owner of stock (as determined under Code Section 424(d)) possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Corporation (or any Parent or Subsidiary).

Exhibit 10.2

PACIRA, INC.

STOCK OPTION AGREEMENT[1]

RECITALS

A. The Board has adopted the Plan for the purpose of retaining the services of selected Employees, non-employee members of the Board or the board of directors of any Parent or Subsidiary and consultants and other independent advisors in the service of the Corporation (or any Parent or Subsidiary).

B. Optionee is to render valuable services to the Corporation (or a Parent or Subsidiary), and this Agreement is executed pursuant to, and is intended to carry out the purposes of, the Plan in connection with the Corporation's grant of an option to Optionee.

C. All capitalized terms in this Agreement shall have the meaning assigned to them in the attached Appendix.

NOW, THEREFORE, it is hereby agreed as follows:

1. **Grant of Option**. The Corporation hereby grants to Optionee, as of the Grant Date, an option to purchase up to the number of Option Shares specified in the Grant Notice. The Option Shares shall be purchasable from time to time during the option term specified in Paragraph 2 at the Exercise Price.

2. **Option Term**. This option shall have a term of ten (10) years measured from the Grant Date and shall accordingly expire at the close of business on the Expiration Date, unless sooner terminated in accordance with Paragraph 5 or 6.

3. **Limited Transferability**.

(a) This option shall be neither transferable nor assignable by Optionee other than by will or the laws of inheritance following Optionee's death and may be exercised, during Optionee's lifetime, only by Optionee. However, Optionee may designate one or more persons as the beneficiary or beneficiaries of this option, and this option shall, in accordance with such designation, automatically be transferred to such beneficiary or beneficiaries upon the Optionee's death while holding this option. Such beneficiary or beneficiaries shall take the transferred option subject to all the terms and conditions of this Agreement, including (without limitation) the limited time period during which this option may, pursuant to Paragraph 5, be exercised following Optionee's death.

[1] The Plan was amended and restated on April 17, 2008, to (i) increase the number of shares authorized for issuance under the Plan from 7,000,000 to 11,475,500 and (ii) reflect the amended regulations promulgated under Section 25102(o) of the California Securities Law of 1968, as amended. The Plan was further amended and restated on September 2, 2010 to increase the number of shares authorized for issuance under the Plan from 11,475,500 to 18,600,750.

(b) If this option is designated a Non-Statutory Option in the Grant Notice, then this option may be assigned in whole or in part during the Optionee's lifetime to one or more members of the Optionee's "immediate family" (as such term is defined in Rule 16a-1(e) promulgated under the 1934 Act) or to an intervivos or grantor trust established exclusively for one or more such immediate family members. The assigned portion shall be exercisable only by the person or persons who acquire a proprietary interest in the option pursuant to such assignment. The terms applicable to the assigned portion shall be the same as those in effect for this option immediately prior to such assignment.

4. **Dates of Exercise**. This option shall become exercisable for the Option Shares in one or more installments as specified in the Grant Notice. As the option becomes exercisable for such installments, those installments shall accumulate, and the option shall remain exercisable for the accumulated installments until the Expiration Date or sooner termination of the option term under Paragraph 5 or 6.

5. **Cessation of Service**. The option term specified in Paragraph 2 shall terminate (and this option shall cease to be outstanding) prior to the Expiration Date should any of the following provisions become applicable:

(a) Should Optionee cease to remain in Service for any reason (other than death, Disability or Misconduct) while this option is outstanding, then Optionee (or any person or persons to whom this option is transferred pursuant to a permitted transfer under Paragraph 3) shall have a period of three (3) months (commencing with the date of such cessation of Service) during which to exercise this option, but in no event shall this option be exercisable at any time after the Expiration Date.

(b) Should Optionee die while this option is outstanding, then the personal representative of Optionee's estate or the person or persons to whom the option is transferred pursuant to Optionee's will or the laws of inheritance following Optionee's death or to whom the option is transferred during Optionee's lifetime pursuant to a permitted transfer under Paragraph 3 shall have the right to exercise this option. However, if Optionee dies while holding this option has an effective beneficiary designation in effect for this option at the time of his or her death, then the designated beneficiary or beneficiaries shall have the exclusive right to exercise this option following Optionee's death. Any such right to exercise this option shall lapse, and this option shall cease to be outstanding, upon the earlier of (i) the expiration of the twelve (12)-month period measured from the date of Optionee's death or (ii) the Expiration Date.

(c) Should Optionee cease Service by reason of Disability while this option is outstanding, then Optionee (or any person or persons to whom this option is transferred pursuant to a permitted transfer under Paragraph 3) shall have a period of twelve (12) months (commencing with the date of such cessation of Service) during which to exercise this option. In no event shall this option be exercisable at any time after the Expiration Date.

Note: Exercise of this option on a date later than three (3) months following cessation of Service due to Disability will result in loss of favorable Incentive Option treatment, unless such Disability constitutes Permanent Disability. In the event that Incentive Option treatment is not available, this option will be taxed as a Non-Statutory Option upon exercise.

(d) During the limited period of post-Service exercisability, this option may not be exercised in the aggregate for more than the number of Option Shares in which Optionee is, at the time of his or her cessation of Service, vested pursuant to the normal Vesting Schedule specified in the Grant Notice or the special vesting acceleration provisions of any Special Acceleration Addendum to this Agreement. No additional Option Shares shall vest following the Optionee's cessation of Service, except to the extent (if any) specifically authorized by the Plan Administrator pursuant to an express written agreement with the Optionee. Upon the expiration of such limited exercise period or (if earlier) upon the Expiration Date, this option shall terminate and cease to be outstanding for any vested Option Shares for which the option has not been exercised.

(e) Should Optionee's Service be terminated for Misconduct or should Optionee otherwise engage in Misconduct while this option is outstanding, then this option shall terminate immediately and cease to remain outstanding.

6. **Change in Control**.

(a) This option, to the extent outstanding at the time of a Change in Control, shall be assumable by the successor corporation (or the parent thereof) or may otherwise be continued in full force and effect pursuant to the express terms of the Change in Control transaction. Upon the occurrence of such Change in Control, this option shall terminate and cease to be outstanding, except to the extent so assumed or otherwise continued in effect. No portion of this option shall vest or become exercisable on an accelerated basis in connection with such Change in Control, except to the extent otherwise provided in any Special Acceleration Addendum to this Agreement.

(b) If this option is assumed in connection with a Change in Control or otherwise continued in effect, then this option shall be appropriately adjusted, immediately after such Change in Control, to apply to the number and class of securities which would have been issuable to Optionee in consummation of such Change in Control had the option been exercised immediately prior to such Change in Control, and appropriate adjustments shall also be made to the Exercise Price, provided the aggregate Exercise Price shall remain the same. To the extent that the actual holders of the Corporation's outstanding Common Stock receive cash consideration for their Common Stock in consummation of the Change in Control, the successor corporation may, in connection with the assumption of this option, substitute one or more shares of its own common stock with a fair market value equivalent to the cash consideration paid per share of Common Stock in such Change in Control.

(c) This Agreement shall not in any way affect the right of the Corporation to adjust, reclassify, reorganize or otherwise change its capital or business structure or to merge, consolidate, dissolve, liquidate or sell or transfer all or any part of its business or assets.

7. **Adjustment in Option Shares**. Should any change be made to the Common Stock by reason of any stock split, reverse stock split, stock dividend, recapitalization, combination of shares, reclassification of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Corporation's receipt of consideration, appropriate adjustments shall be made to (i) the total number and/or class of securities subject to this option and (ii) the Exercise Price in order to reflect such change and thereby preclude a dilution or enlargement of benefits hereunder.

8. **Stockholder Rights**. The holder of this option shall not have any stockholder rights with respect to the Option Shares until such person shall have exercised the option, paid the Exercise Price and become the record holder of the purchased shares.

9. **Manner of Exercising Option**.

(a) In order to exercise this option with respect to all or any part of the Option Shares for which this option is at the time exercisable, Optionee (or any other person or persons exercising the option) must take the following actions:

(i) Execute and deliver to the Corporation a Purchase Agreement for the Option Shares for which the option is exercised.

(ii) Pay the aggregate Exercise Price for the purchased shares in one or more of the following forms:

(A) cash or check made payable to the Corporation; or

(B) a promissory note payable to the Corporation, but only to the extent authorized by the Plan Administrator in accordance with Paragraph 14.

Should the Common Stock be registered under Section 12 of the 1934 Act at the time the option is exercised, then the Exercise Price may also be paid as follows:

(C) in shares of Common Stock held by Optionee (or any other person or persons exercising the option) for the requisite period necessary to avoid a charge to the Corporation's earnings for financial reporting purposes and valued at Fair Market Value on the Exercise Date; or

(D) to extent the option is exercised for vested Option Shares, pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the shares, results in the receipt of cash (or check) by the Corporation.

Except to the extent the sale and remittance procedure is utilized in connection with the option exercise, payment of the Exercise Price must accompany the Purchase Agreement delivered to the Corporation in connection with the option exercise.

(iii) Furnish to the Corporation appropriate documentation that the person or persons exercising the option (if other than Optionee) have the right to exercise this option.

(iv) Execute and deliver to the Corporation such written representations as may be requested by the Corporation in order for it to comply with the applicable requirements of applicable securities laws.

(v) Make appropriate arrangements with the Corporation (or Parent or Subsidiary employing or retaining Optionee) for the satisfaction of all applicable income and employment tax withholding requirements applicable to the option exercise.

(b) As soon as practical after the Exercise Date, the Corporation shall issue to or on behalf of Optionee (or any other person or persons exercising this option) a certificate for the purchased Option Shares, with the appropriate legends affixed thereto.

(c) In no event may this option be exercised for any fractional shares.

10. **REPURCHASE RIGHTS. ALL OPTION SHARES ACQUIRED UPON THE EXERCISE OF THIS OPTION SHALL BE SUBJECT TO CERTAIN RIGHTS OF THE CORPORATION AND ITS ASSIGNS TO REPURCHASE THOSE SHARES IN ACCORDANCE WITH THE TERMS SPECIFIED IN THE PURCHASE AGREEMENT.**

11. **Compliance with Laws and Regulations**.

(a) The exercise of this option and the issuance of the Option Shares upon such exercise shall be subject to compliance by the Corporation and Optionee with all applicable requirements of law relating thereto and with all applicable regulations of any stock exchange (or the Nasdaq National Market, if applicable) on which the Common Stock may be listed for trading at the time of such exercise and issuance.

(b) The inability of the Corporation to obtain approval from any regulatory body having authority deemed by the Corporation to be necessary to the lawful issuance and sale of any Common Stock pursuant to this option shall relieve the Corporation of

any liability with respect to the non-issuance or sale of the Common Stock as to which such approval shall not have been obtained. The Corporation, however, shall use its best efforts to obtain all such approvals.

12. **Successors and Assigns**. Except to the extent otherwise provided in Paragraphs 3 and 6, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the Corporation and its successors and assigns and Optionee, Optionee's assigns and the legal representatives, heirs and legatees of Optionee's estate.

13. **Notices**. Any notice required to be given or delivered to the Corporation under the terms of this Agreement shall be in writing and addressed to the Corporation at its principal corporate offices. Any notice required to be given or delivered to Optionee shall be in writing and addressed to Optionee at the address indicated below Optionee's signature line on the Grant Notice. All notices shall be deemed effective upon personal delivery or upon deposit in the U.S. mail, postage prepaid and properly addressed to the party to be notified.

14. **Financing**. The Plan Administrator may, in its absolute discretion and without any obligation to do so, permit Optionee to pay the Exercise Price for the purchased Option Shares (to the extent such Exercise Price is in excess of the par value of those shares) by delivering a full-recourse promissory note bearing interest at a market rate and secured by those Option Shares. The payment schedule in effect for any such promissory note shall be established by the Plan Administrator in its sole discretion.

15. **Construction**. This Agreement and the option evidenced hereby are made and granted pursuant to the Plan and are in all respects limited by and subject to the terms of the Plan. All decisions of the Plan Administrator with respect to any question or issue arising under the Plan or this Agreement shall be conclusive and binding on all persons having an interest in this option.

16. **Governing Law**. The interpretation, performance and enforcement of this Agreement shall be governed by the laws of the State of California without resort to that State's conflict-of-laws rules.

17. **Stockholder Approval**. If the Option Shares covered by this Agreement exceed, as of the Grant Date, the number of shares of Common Stock which may be issued under the Plan as last approved by the stockholders, then this option shall be void with respect to such excess shares, unless stockholder approval of an amendment sufficiently increasing the number of shares of Common Stock issuable under the Plan is obtained in accordance with the provisions of the Plan.

18. **Additional Terms Applicable to an Incentive Option**. In the event this option is designated an Incentive Option in the Grant Notice, the following terms and conditions shall also apply to the grant:

(a) This option shall cease to qualify for favorable tax treatment as an Incentive Option if (and to the extent) this option is exercised for one or more Option Shares: (i)

more than three (3) months after the date Optionee ceases to be an Employee for any reason other than death or Permanent Disability or (ii) more than twelve (12) months after the date Optionee ceases to be an Employee by reason of Permanent Disability.

(b) This option shall not become exercisable in the calendar year in which granted if (and to the extent) the aggregate Fair Market Value (determined at the Grant Date) of the Common Stock for which this option would otherwise first become exercisable in such calendar year would, when added to the aggregate value (determined as of the respective date or dates of grant) of the Common Stock and any other securities for which one or more other Incentive Options granted to Optionee prior to the Grant Date (whether under the Plan or any other option plan of the Corporation or any Parent or Subsidiary) first become exercisable during the same calendar year, exceed One Hundred Thousand Dollars ($100,000) in the aggregate. To the extent an Option designated as an Incentive Stock Option would become exercisable for the first time for an amount in excess of One Hundred Thousand Dollars ($100,000), the excess amount shall be exercisable as a Non-Statutory Stock Option.

(c) Should Optionee hold, in addition to this option, one or more other options to purchase Common Stock which become exercisable for the first time in the same calendar year as this option, then the foregoing limitations on the exercisability of such options as Incentive Options shall be applied on the basis of the order in which such options are granted.

APPENDIX

The following definitions shall be in effect under the Agreement:

A. **Agreement** shall mean this Stock Option Agreement.

B. **Board** shall mean the Corporation's Board of Directors.

C. **Change in Control** shall mean a change in ownership or control of the Corporation effected through any of the following transactions:

(i) a merger, consolidation or other reorganization approved by the Corporation's stockholders, unless securities representing more than fifty percent (50%) of the total combined voting power of the voting securities of the successor corporation are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the persons who beneficially owned the Corporation's outstanding voting securities immediately prior to such transaction, or

(ii) a stockholder-approved sale, transfer or other disposition of all or substantially all of the Corporation's assets in complete liquidation or dissolution of the Corporation, or

(iii) the acquisition, directly or indirectly by any person or related group of persons (other than the Corporation or a person that directly or indirectly controls, is controlled by, or is under common control with, the Corporation), of beneficial ownership (within the meaning of Rule 13d-3 of the 1934 Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Corporation's outstanding securities pursuant to a tender or exchange offer made directly to the Corporation's stockholders.

In no event shall any public offering of the Corporation's securities be deemed to constitute a Change in Control.

D. **Code** shall mean the Internal Revenue Code of 1986, as amended.

E. **Common Stock** shall mean the Corporation's common stock.

F. **Corporation** shall mean Pacira, Inc., a Delaware corporation, and any successor corporation to all or substantially all of the assets or voting stock of Pacira, Inc. which shall by appropriate action assume this option.

G. **Disability** shall mean the inability of Optionee to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment and shall be determined by the Plan Administrator on the basis of such medical

evidence as the Plan Administrator deems warranted under the circumstances. Disability shall be deemed to constitute **Permanent Disability** in the event that such Disability is expected to result in death or has lasted or can be expected to last for a continuous period of twelve (12) months or more.

H. **Employee** shall mean an individual who is in the employ of the Corporation (or any Parent or Subsidiary), subject to the control and direction of the employer entity as to both the work to be performed and the manner and method of performance.

I. **Exercise Date** shall mean the date on which the option shall have been exercised in accordance with Paragraph 9 of the Agreement.

J. **Exercise Price** shall mean the exercise price payable per Option Share as specified in the Grant Notice.

K. **Expiration Date** shall mean the date on which the option expires as specified in the Grant Notice.

L. **Fair Market Value** per share of Common Stock on any relevant date shall be determined in accordance with the following provisions:

(i) If the Common Stock is at the time traded on the Nasdaq National Market, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question, as the price is reported by the National Association of Securities Dealers on the Nasdaq National Market and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(ii) If the Common Stock is at the time listed on any Stock Exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the Stock Exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such exchange and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(iii) If the Common Stock is at the time neither listed on any Stock Exchange nor traded on the Nasdaq National Market, then the Fair Market Value shall be determined by the Plan Administrator after taking into account such factors as the Plan Administrator shall deem appropriate.

M. **Grant Date** shall mean the date of grant of the option as specified in the Grant Notice.

N. **Grant Notice** shall mean the Notice of Grant of Stock Option accompanying the Agreement, pursuant to which Optionee has been informed of the basic terms of the option evidenced hereby.

O. **Incentive Option** shall mean an option which satisfies the requirements of Code Section 422.

P. **Misconduct** shall mean the commission of any act of fraud, embezzlement or dishonesty by Optionee, any unauthorized use or disclosure by Optionee of confidential information or trade secrets of the Corporation (or any Parent or Subsidiary), or any other intentional misconduct by Optionee adversely affecting the business or affairs of the Corporation (or any Parent or Subsidiary) in a material manner. The foregoing definition shall not in any way preclude or restrict the right of the Corporation (or any Parent or Subsidiary) to discharge or dismiss Optionee or any other person in the Service of the Corporation (or any Parent or Subsidiary) for any other acts or omissions, but such other acts or omissions shall not be deemed, for purposes of the Plan or this Agreement, to constitute grounds for termination for Misconduct.

Q. **1934 Act** shall mean the Securities Exchange Act of 1934, as amended.

R. **Non-Statutory Option** shall mean an option not intended to satisfy the requirements of Code Section 422.

S. **Option Shares** shall mean the number of shares of Common Stock subject to the option.

T. **Optionee** shall mean the person to whom the option is granted as specified in the Grant Notice.

U. **Parent** shall mean any corporation (other than the Corporation) in an unbroken chain of corporations ending with the Corporation, provided each corporation in the unbroken chain (other than the Corporation) owns, at the time of the determination, stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

V. **Plan** shall mean the Corporation's Second Amended and Restated 2007 Stock Option/Stock Issuance Plan.

W. **Plan Administrator** shall mean either the Board or a committee of the Board acting in its capacity as administrator of the Plan.

X. **Purchase Agreement** shall mean the stock purchase agreement in substantially the form of Exhibit B to the Grant Notice.

Y. **Service** shall mean the Optionee's performance of services for the Corporation (or any Parent or Subsidiary) in the capacity of an Employee, a non-employee member of the board of directors or an independent consultant.

Z. **Stock Exchange** shall mean the American Stock Exchange or the New York Stock Exchange.

AA. **Subsidiary** shall mean any corporation (other than the Corporation) in an unbroken chain of corporations beginning with the Corporation, provided each corporation (other than the last corporation) in the unbroken chain owns, at the time of the determination, stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

BB. **Vesting Schedule** shall mean the vesting schedule specified in the Grant Notice pursuant to which the Optionee is to vest in the Option Shares in a series of installments over his or her period of Service.

Exhibit 10.3

BLUE ACQUISITION CORP.

INVESTORS' RIGHTS AGREEMENT

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Schedule A - Schedule of Investors

INVESTORS' RIGHTS AGREEMENT

THIS INVESTORS' RIGHTS AGREEMENT (this "**Agreement**") is made as of March 23, 2007, by and among Blue Acquisition Corp., a Delaware corporation (the "**Company**"), each of the investors listed on Schedule A hereto, each of which is referred to in this Agreement as an "**Investor**," and any Additional Purchaser (as defined in the Purchase Agreement referred to below) that becomes a party to this Agreement in accordance with Section 6.9 hereof.

RECITALS

WHEREAS, the Company and the Investors are parties to the Series A Preferred Stock Purchase Agreement of even date herewith (the "**Purchase Agreement**"); and

WHEREAS, in order to induce the Company to enter into the Purchase Agreement and to induce the Investors to invest funds in the Company pursuant to the Purchase Agreement, the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock issuable to the Investors, to receive certain information from the Company, and to participate in future equity offerings by the Company, and shall govern certain other matters as set forth in this Agreement;

NOW, THEREFORE, the parties hereby agree as follows:

1. Definitions. For purposes of this Agreement:

1.1 "**Affiliate**" means, with respect to any specified Person, any other Person who or which, directly or indirectly, controls, is controlled by, or is under common control with such specified Person, including without limitation any general partner, officer, director, or manager of such Person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person.

1.2 "**Common Stock**" means shares of the Company's common stock, par value $0.001 per share.

1.3 "**Damages**" means any loss, damage, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, or liability (or any action in respect thereof) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (ii) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (iii) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

1.4 "**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.5 "**Excluded Registration**" means (i) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; (iii) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; or (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

1.6 "**Form S-1**" means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

1.7 "**Form S-3**" means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

1.8 "**GAAP**" means generally accepted accounting principles in the United States.

1.9 "**Holder**" means any holder of Registrable Securities who is a party to this Agreement.

1.10 "**Immediate Family Member**" means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.11 "**Initiating Holders**" means, collectively, Holders who properly initiate a registration request under this Agreement.

1.12 "**IPO**" means the Company's first underwritten public offering of its Common Stock under the Securities Act.

1.13 "**Key Employee**" means any executive-level employee (including division director and vice president-level positions) as well as any employee who, either alone or in concert with others, develops, invents, programs, or designs any Company Intellectual Property (as defined in the Purchase Agreement).

1.14 "**Major Investor**" means any Investor that, individually or together with such Investor's Affiliates, holds at least 1,000,000 shares of Registrable Securities (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof).

1.15 "**New Securities**" means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities.

1.16 "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.17 "**Registrable Securities**" means (i) the Common Stock issuable or issued upon conversion of th **e** Series A Preferred Stock, (ii) any Common Stock, or any Common Stock issued or issuable (directly or indirectly) upon conversion and/or exercise of any other securities of the Company, acquired by the Investors after the date hereof, (iii) Common Stock held by the Investors or their Affiliates and (iv) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clause (i), (ii) or (iii) above; excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Section 6.1, and excluding for purposes of Section 2 any shares for which registration rights have terminated pursuant to Section 2.13 of this Agreement.

1.18 "**Registrable Securities then outstanding**" means the number of shares determined by adding the number of shares of outstanding Common Stock that are Registrable Securities and the number of shares of Common Stock issuable (directly or indirectly) pursuant to then exercisable and/or convertible securities that are Registrable Securities.

1.19 "**Restricted Securities**" means the securities of the Company required to bear the legend set forth in Section 2.12(b) hereof.

1.20 "**SEC**" means the Securities and Exchange Commission.

1.21 "**SEC Rule 144**" means Rule 144 promulgated by the SEC under the Securities Act.

1.22 "**SEC Rule 144(k)**" means Rule 144(k) promulgated by the SEC under the Securities Act.

1.23 "**SEC Rule 145**" means Rule 145 promulgated by the SEC under the Securities Act.

1.24 "**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.25 "**Selling Expenses**" means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Section 2.6.

1.26 "**Series A Director**" means any director of the Company that the holders of record of the Series A Preferred Stock are entitled to elect pursuant to the Company's Certificate of Incorporation, as amended and restated.

1.27 "**Series A Preferred Stock**" means shares of the Company's Series A Preferred Stock, par value $0.001 per share.

2. Registration Rights. The Company covenants and agrees as follows:

2.1 Demand Registration.

(a) Form S-1 Demand. If at any time after the earlier of (i) three (3) years after the date of this Agreement or (ii) one hundred eighty (180) days after the effective date of the registration statement for the IPO, the Company receives a request from Holders of at least thirty percent (30%) of the Registrable Securities then outstanding that the Company file a Form S-1 registration statement with respect to at least twenty percent (20%) of the Registrable Securities then outstanding (or a lesser percent if the anticipated aggregate offering price, net of Selling Expenses, would exceed $10,000,000), then the Company shall (i) within ten (10) days after the date such request is given, give notice thereof (the " **Demand Notice**") to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within sixty (60) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3.

(b) Form S-3 Demand. If at any time when it is eligible to use a Form S-3 registration statement, the Company receives a request from Holders of at least twenty percent (20%) of the Registrable Securities then outstanding that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least $1,000,000, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within forty-five (45) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3.

(c) The Company shall not be obligated to effect, or to take any action to effect, any registration (i) pursuant to Section 2.1(a) after the Company has effected three registrations pursuant to Section 2.1(a) or (ii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 2.1(b). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 2.1(b) if the Company has effected two registrations pursuant to Section 2.1(b) within the twelve (12) month period immediately

preceding the date of such request. A registration shall not be counted as "effected" for purposes of this Section 2.1(d) until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration, elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Section 2.6, in which case such withdrawn registration statement shall be counted as "effected" for purposes of this Section 2.1(d).

2.2 Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its securities under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Section 2.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Section 2.6.

2.3 Underwriting Requirements.

(a) If, pursuant to Section 2.1, the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 2.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Initiating Holders, subject only to the reasonable approval of the Company. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Section 2.3, if the managing underwriter(s) advise(s) the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; provided, however, that the number of Registrable Securities held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Section 2.2, the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders

accept the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. Notwithstanding the foregoing, in no event shall (i) the number of Registrable Securities included in the offering be reduced unless all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering, or (ii) the number of Registrable Securities included in the offering be reduced below thirty percent (30%) of the total number of securities included in such offering, unless such offering is the IPO, in which case the selling Holders may be excluded further if the underwriters make the determination described above and no other stockholder's securities are included in such offering. For purposes of the provision in this Section 2.3(b) concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned by all Persons included in such "selling Holder," as defined in this sentence.

2.4 Obligations of the Company. Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially best efforts to cause such registration statement to become effective and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, however, that such one hundred twenty (120) day period shall be extended for a period of time equal to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, and the prospectus used in connection with such registration statement, as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; provided that the Company shall not be required to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any managing underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

2.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder's Registrable Securities.

2.6 Expenses of Registration. All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 2, including all registration, filing, and qualification fees; printers' and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements of one counsel for the selling Holders (" **Selling Holder Counsel**"), shall be borne and paid by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 2.1 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to one registration pursuant to Section 2.1(a) or Section 2.1(b), as the case may be. All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

2.7 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.8 Indemnification. If any Registrable Securities are included in a registration statement under this Section 2:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Section 2.8(a) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the

Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Section 2.8(b) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall any indemnity under this Section 2.8(b) exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 2.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.8, give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.8, to the extent that such failure materially prejudices the indemnifying party's ability to defend such action. The failure to give notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.8.

(d) Notwithstanding anything else herein to the contrary, the foregoing indemnity agreements of the Company and the selling Holders are subject to the condition that, insofar as they relate to any Damages arising from any untrue statement or alleged untrue statement of a material fact contained in, or omission or alleged omission of a material fact from, a preliminary prospectus (or necessary to make the statements therein not misleading) that has been corrected in the form of prospectus included in the registration statement at the time it becomes effective, or any amendment or supplement thereto filed with the SEC pursuant to Rule 424(b) under the Securities Act (the "**Final Prospectus**"), such indemnity agreement shall not inure to the benefit of any Person if a copy of the Final Prospectus was furnished to the indemnified party and such indemnified party failed to deliver, at or before the confirmation of the sale of the shares registered in such offering, a copy of the Final Prospectus to the Person asserting the loss, liability, claim, or damage in any case in which such delivery was required by the Securities Act.

(e) To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Section 2.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Section 2.8 provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any party hereto for which indemnification is provided under this Section 2.8, then, and in each such case, such parties will contribute to the aggregate losses, claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (x) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (y) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Section 2.8(e), when combined with the amounts paid or payable by such Holder pursuant to Section 2.8(b), exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of willful misconduct or fraud by such Holder.

(f) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(g) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Section 2.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2, and otherwise shall survive the termination of this Agreement.

2.9 Reports Under Exchange Act. With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

2.10 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder (i) to include such securities in any registration unless, under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such securities will not reduce the number of the Registrable Securities of the Holders that are included or (ii) to demand registration of any securities held by such holder or prospective holder; provided that this limitation shall not apply to any additional Investor who becomes a party to this Agreement in accordance with Section 6.9.

2.11 "Market Stand-off" Agreement. Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the IPO and ending on the date specified by the managing underwriter (such period not to exceed l80 days or, if required by such underwriter, such longer period of time as is necessary to enable such underwriter to issue a research report or make a public appearance that relates to an earnings release or announcement by the Company within 18 days prior to or after the date that is one hundred eighty (180) days after the effective date of the registration statement relating to such offering, but in any event not to exceed two hundred ten (210) days following the effective date of the registration statement relating to such offering), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock

or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section 2.11 shall apply only to the IPO, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall be applicable to the Holders only if all officers, directors, and stockholders individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Series A Preferred Stock) are subject to the same restrictions. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 2.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 2.11 or that are necessary to give further effect thereto.

2.12 Restrictions on Transfer.

(a) The Series A Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Series A Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

(b) Each certificate or instrument representing (i) the Series A Preferred Stock, (ii) the Registrable Securities, and (iii) any other securities issued in respect of the securities referenced in clauses (i) and (ii), upon any stock split, stock dividend, recapitalization, merger, consolidation, or similar event, shall (unless otherwise permitted by the provisions of Section 2.12(c)) be stamped or otherwise imprinted with a legend substantially in the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. SUCH SHARES MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

THE SHARES REPRESENTED HEREBY MAY BE SOLD, PLEDGED, HYPOTHECATED OR TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN INVESTORS' RIGHTS AGREEMENT BY AND AMONG THE COMPANY, THE STOCKHOLDER AND CERTAIN OTHER SECURITYHOLDERS OF THE COMPANY, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Section 2.12.

(c) The holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the provisions of this Section 2. Before any proposed sale, pledge, or transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such Restricted Securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Restricted Securities may be effected without registration under the Securities Act, whereupon the Holder of such Restricted Securities shall be entitled to sell, pledge, or transfer such Restricted Securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with SEC Rule 144 or (y) in any transaction in which such Holder distributes Restricted Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Section 2.12. Each certificate or instrument evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Section 2.12(b), except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

2.13 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Section 2.1 or Section 2.2 shall terminate upon the earliest to occur of:

(a) the closing of an Deemed Liquidation Event (as such term is defined in the Company's Certificate of Incorporation);

(b) when all of such Holder's Registrable Securities could be sold without restriction under SEC Rule 144(k) during any 90-day period and such Holder owns less than 1% of the then outstanding capital stock of the Company; and

(c) the fifth anniversary of an IPO.

3. Information.

3.1 Delivery of Financial Statements. The Company shall deliver to each Major Investor:

(a) as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year of the Company, (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and (iii) a statement of stockholders' equity as of the end of such year **,** all such financial statements audited and certified by independent public accountants of nationally recognized standing selected by the Company; such financial statements shall be accompanied by a statement setting forth variances from the amounts shown on the Budget (as defined below) for such fiscal year;

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP); such financial statements shall be accompanied by a statement setting forth variances from the amounts shown on the Budget (as defined below) for the corresponding fiscal quarter;

(c) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company and within ninety (90) days after the end of each fiscal year of the Company, (i) a summary of the Company's sales bookings and backlog for such period and (ii) a statement showing the number of shares of each class and series of capital stock and securities convertible into or exercisable for shares of capital stock outstanding at the end of the period, the Common Stock issuable upon conversion or exercise of any outstanding securities convertible or exercisable for Common Stock and the exchange ratio or exercise price applicable thereto, and the number of shares of issued stock options and stock options not yet issued but reserved for issuance, if any, all in sufficient detail as to permit the Major Investors to calculate their respective percentage equity ownership in the Company, and certified by the chief financial officer or chief executive officer of the Company as being true, complete, and correct; and

(d) as soon as practicable, but in any event thirty (30) days before the end of each fiscal year, a budget and business plan for the next fiscal year (collectively, the "**Budget**"), approved by the Board of Directors and prepared on a monthly basis, including balance sheets, income statements, and statements of cash flow for such months and, promptly after prepared, any other budgets or revised budgets prepared by the Company.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Notwithstanding anything else in this Section 3.1 to the contrary, the Company may cease providing the information set forth in this Section 3.1 during the period starting with the date sixty (60) days before the Company's good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided further that the Company's covenants under this Section 3.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

3.2 Inspection. The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's properties; examine its books of account and records; and discuss the Company's affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 3.2 to provide access to any information that it reasonably considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

3.3 Termination of Information and Inspection Rights. The covenants set forth in Section 3.1 and Section 3.2 shall terminate and be of no further force or effect (i) immediately before the consummation of a Qualified IPO, as defined in the Certificate of Incorporation of the Company, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, whichever of the events described in clauses (i) to (iii) occurs first.

3.4 Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company's intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Section 3.4 by such Investor), (b) is or has been independently developed or conceived by the Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Section 3.4; (iii) to any existing or prospective Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, provided that the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure.

4. Rights to Future Stock Issuances.

4.1 Right of First Offer. Subject to the terms and conditions of this Section 4.1 and applicable securities laws, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to each Major Investor. A Major Investor shall be entitled to apportion the right of first offer hereby granted to it among itself and its Affiliates in such proportions as it deems appropriate.

(a) The Company shall give notice (the "**Offer Notice**") to each Major Investor, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By notification to the Company within twenty (20) days after the Offer Notice is given, each Major Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Series A Preferred Stock then held, by such Major Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Series A Preferred Stock then held, by all the Major Investors. At the expiration of such twenty (20) day period, the Company shall promptly notify each Major Investor that elects to purchase or acquire all the shares available to it (each, a " **Fully Exercising Investor**") of any other Major Investor's failure to do likewise. During the ten (10) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the New Securities for which Major Investors were entitled to subscribe but that were not subscribed for by the Major Investors which is equal to the proportion that the Common Stock issued and held, or issuable upon conversion and/or exercise, as applicable, of Series A Preferred Stock then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Series A Preferred Stock then held, by all Fully Exercising Investors who wish to purchase such unsubscribed shares. The closing of any sale pursuant to this Section 4.1(b) shall occur within the later of one hundred twenty (120) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Section 4.1(c).

(c) If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Section 4.1(b), the Company may, during the sixty (60) day period following the expiration of the periods provided in Section 4.1(b), offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Holders in accordance with this Section 4.1.

(d) The right of first offer in this Section 4.1 shall not be applicable to (i) Exempted Securities (as defined in the Company's Certificate of Incorporation); (ii) shares of Common Stock issued in a Qualified IPO; (iii) the issuance of shares of Series A Preferred Stock to Additional Purchasers pursuant to Section 1.3 of the Purchase Agreement; or (iv) covered transactions as to which the Holders of two-thirds (66 2/3%) of the then outstanding Registrable Securities, or two-thirds of the directors of the Company then in office, duly acting by vote at a meeting or written consent, waive the applicability of this Section 4.1.

4.2 Termination. The covenants set forth in Section 4.1 shall terminate and be of no further force or effect (i) immediately before the consummation of a Qualified IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, whichever of the events described in clauses (i) to (iii) occurs first.

5. Additional Covenants.

5.1 Insurance. The Company shall use its commercially reasonable efforts to obtain, within ninety (90) days of the date hereof, from financially sound and reputable insurers Directors and Officers Errors and Omissions insurance in an amount and otherwise in the form and substance approved by the Board of Directors, and will use commercially reasonable efforts to cause such insurance policies to be maintained so long as the holders of Preferred Stock of the Company are entitled to elect at least one member of the Board of Directors.

5.2 Employee Agreements. The Company will cause (i) each person now or hereafter employed by it or by any subsidiary (or engaged by the Company or any subsidiary as a consultant/independent contractor) with access to confidential information and/or trade secrets to enter into a nondisclosure and proprietary rights assignment agreement; (ii) each Key Employee to enter into a nonsolicitation agreement (having a nonsolicitation term of at least one year), substantially in the form approved by the Board of Directors, which approval must include the affirmative vote of a majority of the Series A Directors (as such term is defined in the Company's Certificate of Incorporation); and (iii) each person now or hereafter employed by it or by any subsidiary to be employed on an at-will basis. In addition, the Company shall not amend, modify, terminate, waive, or otherwise alter, in whole or in part, any of the above-referenced agreements or any restricted stock agreement between the Company and any employee, without the unanimous consent of the Series A Directors.

5.3 Employee Vesting. Unless otherwise unanimously approved by the Board of Directors, all future employees and consultants of the Company who purchase, receive options to purchase, or receive awards of shares of the Company's capital stock after the date hereof shall be required to execute restricted stock or option agreements, as applicable, providing for (i) vesting of shares over a four (4) year period, with the first twenty-five percent (25%) of such shares vesting following twelve (12) months of continued employment or service, and the remaining shares vesting in equal monthly installments over the following thirty-six (36) months, and (ii) a market stand-off provision substantially similar to that in Section 2.11.

5.4 Meetings of the Board of Directors. Unless otherwise determined by the vote of a majority of the directors then in office, the Board of Directors shall meet at least six (6) times per year in accordance with a schedule mutually agreed upon with the Board.

5.5 Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board of Directors as in effect immediately before such transaction, whether such obligations are contained in the Company's Bylaws, its Certificate of Incorporation, or elsewhere, as the case may be.

5.6 Board Expenses. The Company shall reimburse the Series A Directors for all reasonable out-of-pocket travel expenses incurred (consistent with the Company's travel policy) in connection with attending meetings of the Board of Directors.

5.7 Termination of Covenants. The covenants set forth in this Section 5, except for Section 5.7, shall terminate and be of no further force or effect (i) immediately before the consummation of a Qualified IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, whichever of the events described in clauses (i) to (iii) occurs first.

6. Miscellaneous.

6.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities that (i) is an Affiliate, partner, member, limited partner, retired partner, retired member, or stockholder of a Holder; (ii) is a Holder's Immediate Family Member or trust for the benefit of an individual Holder or one or more of such Holder's Immediate Family Members; or (iii) after such transfer, holds at least 1,000,000 shares of Registrable Securities (subject to appropriate adjustment for stock splits, stock dividends, combinations, and other recapitalizations); *provided, however*, that (x) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Section 2.11. For the purposes of determining the number of shares of Registrable Securities held by a transferee, the holdings of a transferee (1) that is an Affiliate, limited partner, retired partner, member, retired member, or stockholder of a Holder; (2) who is a Holder's Immediate Family Member; or (3) that is a trust for the benefit of an individual Holder or such Holder's Immediate Family Member shall be aggregated together and with those of the transferring Holder; provided further that all transferees who would not qualify individually for assignment of rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices, or taking any action under this Agreement. The terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees 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 permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

6.3 Counterparts; Facsimile. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may also be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.4 Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

6.5 Notices. All notices, requests, and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given, delivered and received (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after the business day of deposit with a nationally recognized overnight courier, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company, or to such email address, facsimile number, or address as subsequently modified by written notice given in accordance with this Section 6.5. If notice is given to the Company, a copy shall also be sent to Attn: Curtis L. Mo, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, 1117 California Avenue, California 94304.

6.6 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance, and either retroactively or prospectively) only with the written consent of the Company and the holders of two-thirds (66 2/3%) of the Registrable Securities then outstanding; provided that the Company may in its sole discretion waive compliance with Section 2.12(c) (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Section 2.12(c) shall be deemed to be a waiver); and provided further that any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party. Notwithstanding the foregoing, this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor, unless such amendment, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 4 with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction). The Company shall give prompt notice of any

amendment or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, termination, or waiver. Any amendment, termination, or waiver effected in accordance with this Section 6.6 shall be binding on all parties hereto, regardless of whether any such party has consented thereto. No waivers of or exceptions to any term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision.

6.7 Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

6.8 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

6.9 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of Series A Preferred Stock after the date hereof, pursuant to the Purchase Agreement, any purchaser of such shares of Series A Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed an "Investor" for all purposes hereunder. No action or consent by the Investors shall be required for such joinder to this Agreement by such additional Investor, so long as such additional Investor has agreed in writing to be bound by all of the obligations as an "Investor" hereunder.

6.10 Entire Agreement. This Agreement (including any Schedules hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties is expressly canceled.

6.11 Dispute Resolution. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the state courts of California and to the jurisdiction of the United States District Court for the District of Northern California for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of California or the United States District Court for the District of Northern California, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. The prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled. Each of the parties to this Agreement consents to personal jurisdiction for any equitable action sought in the U.S. District Court for the District of Northern California or any court of the State of California having subject matter jurisdiction.

6.12 Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

COMPANY:

BLUE ACQUISITION CORP.

By: /s/ Fred A. Middleton

Name:

Title:

Address:

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

INVESTORS:

FOUNDATION FOR RESEARCH

By: /s/ Andrew MacKenzie
Name: Andrew MacKenzie
Title: Vice President

[SIGNATURE PAGE TO INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

INVESTORS:

MPM BIOVENTURES IV-QP, L.P.
By: MPM BIOVENTURES IV GP LLC, its General Partner
By: MPM BIOVENTURES IV LLC, its Managing Member

By: /s/ Luke Evnin
Name: Luke Evnin
Title: Member

MPM ASSET MANAGEMENT INVESTORS BV4 LLC
By: MPM BIOVENTURES IV LLC, its Manager

By: /s/ Luke Evnin
Name: Luke Evnin
Title: Member

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

INVESTORS:

MPM BIOVENTURES IV GMBH & CO. BETEILIGUNGS KG

By: MPM BIOVENTURES IV LLC
Its: Managing Member

By: /s/ Luke Evnin
Name: Luke Evnin
Title: Member

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

INVESTORS:

HBM BIOVENTURES (CAYMAN) LTD.

By: /s/ John Arnold
Name: John Arnold
Title: Chairman and Managing Director

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

INVESTORS:

CADUCEUS PRIVATE INVESTMENTS III, LP

By: /s/ Carl Gordon
Its: _____

By: _____
Name: _____
Title: _____

ORBIMED ASSOCIATES III, LP

By: /s/ Carl Gordon
Its: _____

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement as of the date first written above.

SANDERLING VENTURE PARTNERS VI, L.P.
SANDERLING VI LIMITED PARTNERSHIP
SANDERLING VI BETEILIGUNGS GMBH & CO. KG
SANDERLING VENTURE PARTNERS VI CO-INVESTMENT FUND L.P.

By: Middleton, McNeil, Mills & Associates VI, LLC
Its: General Partner

By: /s/ Fred A. Middleton
Name: Fred A. Middleton
Title: Managing Director

SANDERLING VENTURES MANAGEMENT VI

By: /s/ Fred A. Middleton
Name: Fred A. Middleton
Title: Owner

SCHEDULE A

INVESTORS[1]

NAME AND ADDRESS	SHARES
FOUNDATION FOR RESEARCH 402 North Division Street Carson City, Nevada 89703 Attn: C. W. Wellen, President Phone: (775) 687-0245 Facsimile: (775) 882-7918	4,000,000
HBM BIOVENTURES (CAYMAN) LTD. Centennial Towers, 3rd Floor 2454 West Bay Road Grand Cayman Cayman Islands Attn: John Arnold Facsimile: _____	8,000,000
MPM BIOVENTURES IV-QP, L.P. 601 Gateway Boulevard, Suite 350 South San Francisco, California 94080 Attn: Luke Evnin Facsimile: (650) 553-3301	7,498,788
MPM BIOVENTURES IV GMBH & CO. BETEILIGUNGS KG 601 Gateway Boulevard, Suite 350 South San Francisco, California 94080 Attn: Luke Evnin Facsimile: (650) 553-3301	288,896

[1] Table to be amended to reflect any additional shares of Series A Preferred Stock sold in the Second Closing and Third Closing under the Purchase Agreement, and any Additional Investors and related share amounts.

NAME AND ADDRESS	SHARES
MPM ASSET MANAGEMENT INVESTORS BV4 LLC 601 Gateway Boulevard, Suite 350 South San Francisco, California 94080 Attn: Luke Evnin Facsimile: (650) 553-3301	212,316
CADUCEUS PRIVATE INVESTMENTS III, LP 767 Third Avenue 30th Floor New York, New York 10017 Attn: Carl L. Gordon Facsimile: (212) 739-6444	7,924,528
ORBIMED ADVISORS, LLC 767 Third Avenue 30th Floor New York, New York 10017 Attn: Carl L. Gordon Facsimile: (212) 739-6444	75,472
SANDERLING VENTURE PARTNERS VI, L.P. **SANDERLING VI LIMITED PARTNERSHIP** **SANDERLING VI BETEILIGUNGS GMBH & CO. KG** **SANDERLING VENTURES MANAGEMENT VI** 400 El Camino Real, Suite 1200 San Mateo, California 94402-1708 Attn: Fred A. Middleton Facsimile: (650) 375-7077	8,000,000
TOTAL:	**36,000,000**

Exhibit 10.19

TORREY PINES SCIENCE PARK

Industrial Real Estate Triple Net Lease

BETWEEN

EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES,

A New York corporation,

AS LANDLORD

AND

DEPOTECH CORPORATION,

a California corporation

AS TENANT

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TORREY PINES SCIENCE PARK

Industrial Real Estate Triple Net Lease

I
BASIC TERMS

This Article One contains the Basic Terms of this Lease between the Landlord and Tenant named below. Other Articles, Sections and Subsections of the Lease referred to in this Article One explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

1.1 Date of Lease. This Lease is entered into as of August 17, 1993, by and between Landlord and Tenant named below.

1.2 Landlord. EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation.

Address of Landlord: 11011 North Torrey Pines Road, Suite 200,
La Jolla, California 92037.

1.3 Tenant. DEPOTECH CORPORATION, a California corporation.

Address of Tenant: 11025 North Torrey Pines Road, Suite 100,
La Jolla, California 92037.

1.4 Premises. The Premises contain approximately twenty-one thousand seven hundred forty-six (21,746) square feet of rentable area ("Rentable Area") as shown or as will be shown on Exhibit "A" attached hereto and by this reference incorporated herein, and are situated on the first floor within that certain building known as Building No. 6 and located at 11011 North Torrey Pines Road, La Jolla, California 92037 (the "Building"). If the precise location of the Premises is not known as of the date of execution of this Lease, the parties will agree on the location as soon as reasonably possible after execution and shall designate the location on Exhibit "A" and initial it to evidence their agreement. The Premises will be leased in two phases, with the first phase (Phase I) to consist of approximately an interior space area of ten thousand (10,000) square feet of Useable Area ("Useable Area") and, using a core factor of 1.0873, approximately of ten thousand eight hundred seventy-three (10,873) square feet of Rentable Area. The second phase ("Phase II") will consist of approximately an interior space area of ten thousand (10,000) square feet of Useable Area and, using a core factor of 1.0873, approximately ten thousand eight hundred seventy-three (10,873) square feet of Rentable Area, all as depicted on Exhibit "A." As soon as reasonably possible after completion of the Tenant Improvements described herein for each phase, Landlord and Tenant shall confirm the measurements of the usable area of that phase of the Premises by measuring the

Premises in accordance with BOMA standards ANSIZ65.1 - 1980 ("Usable Area") and, if Tenant disputes the Landlord's measurements, Tenant shall submit Tenant's measurements and dispute to Landlord within thirty (30) days after Tenant receives the measurements. Landlord and Tenant shall attempt to resolve any dispute within ten (10) days. If Landlord and Tenant fail to agree on the measurement of Usable Area within ten (10) days, Landlord and Tenant shall resolve any dispute by submitting the dispute to a third party acceptable to Landlord and Tenant and familiar with BOMA standards, who shall measure the applicable phase of the Premises and submit the calculation of Usable Area to Landlord and Tenant within ten (10) days. The square footage of Usable Area and Rentable Area shall be inserted in Exhibit "D" and initialed by the parties. If Tenant fails to dispute Landlord's measurements within thirty (30) days after Tenant receives the measurements, Tenant shall have waived any right to dispute Landlord's measurement and Landlord's measurements of Usable Area and Rentable Area shall be conclusively deemed to be correct. The Building contains approximately eighty-five thousand six hundred thirty (85,630) total square feet of rentable area. The Building is situated within that certain project known as TORREY PINES SCIENCE PARK, located at 11011-11085 North Torrey Pines Road, La Jolla, California 92037 (the "Project"), more particularly identified on Exhibit "B" attached hereto and by this reference incorporated herein. The Project contains approximately two hundred eighty-nine thousand four hundred sixty-eight (289,468) square feet of rentable area.

1.5 Lease Term. The Lease Term for the Premises leased as a part of Phase I (the "Phase I Premises") shall commence on the earlier of: (a) occupancy of the Phase I Premises by Tenant upon the date of substantial completion of the Tenant Improvements as evidenced by preparation of the list of Punch List Items pursuant to Section 1.5.2 or (b) February 1, 1994 (the "Commencement Date"). The Commencement Date for the portion of the Premises leased as part of Phase II (the "Phase II Premises") shall be the earlier of: (a) substantial completion of the Phase II Tenant Improvements as evidenced by preparation of the list of Punch List Items pursuant to Section 1.5.2 or (b) January 1, 1996. The Lease Term for all of the Premises shall end January 31, 2006 ("Initial Lease Term") unless extended pursuant to Section 2.6 below.

1.5.1 Delivery of Premises. If the Tenant Improvements for portions of the Phase I Premises or Phase II Premises are substantially complete, Tenant, with the consent of Landlord, may elect to occupy the portions of the Phase I Premises or Phase II Premises for which the Tenant Improvements have been completed. In such event, the Commencement Date for the entire Phase I Premises or Phase II Premises shall be the date of occupancy of the substantially completed portion of the Tenant Improvements first occupied by Tenant, but Tenant shall pay the Basic Monthly Rent only on the square footage of Rentable Area for those portions of the Phase I Premises or Phase II Premises which have been substantially completed until such time as the remaining Phase I Premises or Phase II Premises have been substantially completed.

1.6 Permitted Uses. The Premises shall be used as a medical research lab with light production and manufacturing of drug formulations together with incidental office and storage uses. All uses of the Premises shall be in accordance with the City of San Diego's Scientific Research Zoning Ordinance, and shall be subject to any recorded covenants, conditions and restrictions for the Project (the "CC&R's") and applicable governmental rules and regulations. In no event shall any use of the Premises involve any activity not covered by forms of insurance required to be maintained under this Lease.

1.7 Tenant's Guarantor. Tenant does not have a guarantor under this Lease.

1.8 Initial Security Deposit. Tenant shall deliver to Landlord as security for this Lease an irrevocable letter of credit in the face amount of Three Hundred and Fifty Thousand and No/100 Dollars ($350,000.00) ("Security Deposit") which letter of credit shall be in the form and subject to the conditions set forth in Section 3.4.2.

1.9 Rent and Other Charges Payable by Tenant.

1.9.1 Basic Monthly Rent. The basic monthly rent for the Premises ("Basic Monthly Rent") shall be the sum of One Dollar and Ninety Cents ($1.90) per square foot of Rentable Area per month, on a triple net basis for the first twelve (12) months and shall be adjusted as set forth in Section 3.2 hereof. When Rent commences for the Phase II Premises the Basic Monthly Rent for the Phase II Premises shall be the same amount per square foot of Rentable Area in the Phase II Premises as that for the Phase I Premises and it shall be adjusted at the same time as the Rent is adjusted for the Phase I Premises regardless of when Rent commences for the Phase II Premises. The obligation of Tenant to pay Basic Monthly Rent shall commence on the Commencement Date for the applicable phase and shall continue uninterrupted throughout the remainder of the Lease Term.

1.9.2 Other Periodic Payments; Additional Rent. Tenant shall further be obligated to pay Landlord Additional Rent as defined in Article Four and Article Six herein. Additional Rent shall include: (i) Real Property Taxes; (ii) Utilities; (iii) Insurance Premiums; (iv) Project Operating Expenses; (v) Building Operating Costs; (iv) Impounds for Insurance Premiums and Property Taxes; and (vii) such Maintenance, Repairs and Alterations as set forth herein.

1.9.3 Tenant's Share of Building Operating Costs. Tenant's share of the Building Operating Costs (based upon the Rentable Area of the Premises to rentable area of the Building)

shall be twelve and seven tenths percent (12.7%) after the Commencement Date for the Phase I Premises and twenty-five and four tenths percent (25.4%) after the Commencement Date for the Phase II Premises when all of the Premises are leased. If the remeasurement of the Usable Area of the Premises as described in Section 1.4 results in a change in the Rentable Area of the Premises from the 21,746 square feet described in Section 1.4 then the percent described herein shall be correspondingly adjusted.

1.9.4 Tenant's Share of Taxes and Project Operating Expenses. Tenant's share of Taxes and Project Operating Expenses (based upon the Rentable Area of the Premises to rentable area of the Project) shall be three and seventy-six hundredths percent (3.76%) after the Commencement Date for the Phase I Premises and seven and fifty-one hundredths percent (7.51%) after the Commencement Date for the Phase II Premises when the entire Premises shall be leased. If the remeasurement of the Usable Area of the Premises as described in Section 1.4 results in a change in the Rentable Area of the Premises from the 21,746 square feet described in Section 1.4 then the percent described herein shall be correspondingly adjusted.

1.10 Rider and Exhibits. The following Rider is attached to and made a part of this Lease:

Tenant Improvements Rider

The following exhibits are attached hereto and made a part of this Lease:

Exhibit A: Plat of Premises showing Phase I and Phase II

Exhibit A-l: Executive Dining Room

Exhibit B: Plat of the Project

Exhibit C: Tenant Improvements Rider

Exhibit D: Usable Square Footage Measurements

Exhibit E: Roof Access Rider

Exhibit F: Form of Letter of Credit

II
LEASE TERM

2.1 Commencement Date. The Commencement Date shall be the date specified in Section 1.5 above for the beginning of the Lease Term, unless advanced or delayed under any provision of this Lease.

2.2 Lease of Premises for Lease Term. Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord, in phases as described above, for the Lease Term. The Lease Term is for the period stated in Section 1.5 above and shall begin and end on the dates specified in Section 1.5 above, unless the beginning or end of the Lease Term is changed under any provision of this Lease.

2.3 Holding Over. Tenant shall vacate the Premises upon the expiration or earlier termination of this Lease, unless Tenant has exercised its Option (as defined herein) or Landlord and Tenant have otherwise agreed in writing to extend the Lease Term. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord from any delay by Tenant in vacating the Premises. If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only and not a renewal hereof or an extension for any further term, and in such case, Basic Monthly Rent then in effect shall be increased to an amount equal to 150% of the Basic Monthly Rent then in effect and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease; and such month-to-month tenancy shall be subject to every other term, covenant and agreement contained herein, except that the month-month tenancy will be terminable on thirty (30) days written notice given at any time by either party.

2.4 Surrender of Premises. Upon the termination of the Lease, Tenant shall surrender the Premises to Landlord in the condition specified in and according to Section 6.6.

2.5 Option to Extend or Renew. Landlord hereby grants to Tenant one (1) option to extend the Lease Term ("Option") for a period of five (5) years ("Extension") after the initial Lease Term expires; provided, however, that if Tenant chooses to exercise the Option, Tenant must also concurrently exercise its option for the space Tenant is leasing from Landlord in Building 5 ("the Building 5 Premises") pursuant to a certain lease dated as of April 2, 1992 between Landlord and Tenant as amended from time to time ("the Building 5 Lease"). The Extension shall be on the same terms and conditions as set forth in this Lease, but at an increased rent as set forth below in Section 3.3.

2.5.1 Notice. The Option shall be exercised only by written notice ("Notice of Exercise") delivered to Landlord at least twelve (12) months but no more than fifteen (15) months before the expiration of the Lease Term. If Tenant fails to deliver to Landlord its Notice of Exercise of the Option for both the Premises and the Building 5 Premises within the prescribed time period, such Option shall lapse, and there shall be no further right to extend the Lease Term. In addition, Tenant may deliver to Landlord a Notice of Intent pursuant to Section 3.3.1 below. Tenant's failure to timely deliver a Notice of Intent shall not affect Tenant's right to exercise the Option; provided, however, that if the Notice of Intent was not timely delivered but the Notice of Exercise was timely delivered, Tenant shall be obligated to pay an increased Basic Monthly Rent based on the fair market value of the Premises determined in the manner described in Section 3.3 below. In the event that Tenant fails to deliver or fails to timely deliver a Notice of Intent, but timely delivers a Notice of Exercise, then, for purposes of determining the time periods set forth in Section 3.3, the term "Notice of Exercise" shall be substituted for the term "Notice of Intent" in the second and third sentences of Section 3.3.1, in Section 3.3.2 and in Section 3.3.7.

2.5.2 Conditions. The Option shall be exercisable by Tenant on the express condition that at the time of the exercise, and at all times prior to the commencement of the Extension, Tenant shall not be in default under any of the provisions of the Lease or the Building 5 Lease after any applicable grace period.

2.6 Personal Options. The Option is personal to the Tenant named in Section 1.3 of the Lease and cannot be transferred without Landlord's consent.

2.6.1 If Tenant subleases any portion of the Premises or assigns or otherwise transfers any interest under the Lease prior to the exercise of an Option without Landlord's consent, the Option shall lapse.

2.6.2 If Tenant subleases any portion of the Premises or assigns or otherwise transfers any interest of Tenant under the Lease after the exercise of an Option but prior to the commencement of the month-to-month tenancy without Landlord's consent, the Option shall lapse and the Lease Term shall expire as if such Option were not exercised.

2.6.3 If Tenant subleases any portion of the Premises or assigns or otherwise transfers any interest of Tenant under the Lease after the exercise of the Option and after the commencement of the month-to-month tenancy related to such Option without Landlord's consent, then the term of the Lease shall expire upon the expiration of the month during which such sublease or transfer occurred and the remainder of the Option shall lapse.

2.7 Right of Second Refusal. Landlord hereby grants to Tenant the right of second refusal to lease the space in the Building shown on Exhibit "A" ("Expansion Space"). The Expansion Space is subject to and subordinate to a first right of refusal of another tenant in the Project. If Landlord receives a bona fide offer to lease the Expansion Space and which Landlord is willing to accept ("Bona Fide Offer"), then Landlord shall deliver a notice setting forth the terms of the Bona Fide Offer to Tenant. Tenant shall then have five (5) days from receipt of the Bona Fide Offer to provide Landlord with written notice that Tenant elects to exercise its right of refusal to lease the Expansion Space described in the Bona Fide Offer on the same terms as set forth in the Bona Fide Offer, including, but not limited to, triple net rent, operating and management expenses, and tenant improvement allowance. Landlord shall give a concurrent notice to the holder of the first right of refusal. If the holder of the first right of refusal elects not to lease the Expansion Space, Landlord and Tenant shall amend this Lease as to the additional square footage to conform it to the economic terms and conditions of the Bona Fide Offer in the event that the right of refusal by Tenant is exercised. If Tenant does not elect to exercise its right of refusal with respect to the space described in the Bona Fide Offer, Tenant's right of refusal with respect to such space only shall terminate if Landlord does enter into a lease with the proposed tenant within six (6) months of the date the Bona Fide Offer is delivered to Tenant, provided that the lease is on the same terms or similar terms (i.e., the economic terms are not varied by more than ten percent (10%)) as the Bona Fide Offer. If Landlord does not enter into a lease with the proposed tenant within six (6) months after the date the Bona Fide Offer is delivered to Tenant or if the lease which is entered into terminates prior to the expiration of the term of this Lease, Landlord shall provide the right of refusal in accordance with the provisions of this section to Tenant with respect to the space which had been subject to the terminated lease or has not been leased within six (6) months. If Tenant subleases or assigns this Lease or any interest in the Premises without Landlord's written consent, the right of refusal set forth in this Section 2.7 shall lapse.

2.8 Right of First Offer. Landlord has leased the space in the Building shown on Exhibit "A-1" ("Executive Dining Area") to another tenant in the Building. Upon termination of the lease with such tenant or any extension of such lease, Landlord may elect to allow use of the Executive Dining Area as a Project Common Area. However, if Landlord determines that Landlord is willing to offer the Executive Dining Area for lease, Landlord agrees that Landlord shall deliver to Tenant a notice that Landlord proposes to lease the Executive Dining Area (the "Availability Notice"). Following receipt of the Availability Notice, Tenant may make an offer to lease the Executive Dining Area, setting forth the terms of Tenant's offer. Landlord shall be permitted to offer the Executive Dining Area to other potential tenants and Landlord may accept any offer or no offer as Landlord deems to be in Landlord's best interest.

III
BASIC MONTHLY RENT

3.1 Time and Manner of Payment. Upon the Commencement Date for the applicable phase occupied by Tenant pursuant to this Lease, and each month thereafter Tenant shall pay Landlord the Basic Monthly Rent in the amount stated in Subsection 1.9.1 above in United States currency, in advance, on or before the first day of each month without offset, deduction or prior demand. The Basic Monthly Rent shall be payable at Landlord's address or at such other place as Landlord may designate in writing.

3.2 Basic Monthly Rent Adjustments. The Basic Monthly Rent during the term of this Lease shall be adjusted as set forth below.

3.2.1 Tenant Improvement Cost Adjustment. Landlord and Tenant acknowledge that the Basic Monthly Rent of $1.90 per square foot of Rentable Area has been established based upon an assumption that Landlord will contribute up to $70.00 per square foot of Usable Area for Tenant Improvement Costs (as defined in the Tenant Improvements Rider attached as Exhibit "C"). As soon as reasonably possible after the completion of the Tenant Improvements for each phase, the actual cost of Landlord's contribution per square foot of Usable Area of that phase for the Tenant Improvement Cost shall be calculated. If said amount is less than $70.00 per square foot of Usable Area, the Basic Monthly Rent for the space taken pursuant to that phase shall be reduced by $.01 per square foot of Rentable Area in that phase for each $1.00 of Tenant Improvement Cost which is less than $70.00 per square foot of Usable Area. The adjustment described in this Section 3.2.1 will be effective as of the Commencement Date for the phase for which Rent is being adjusted.

3.2.2 Percentage Increases. The Basic Monthly Rent (as adjusted pursuant to Section 3.2.1 above) shall be increased on the first day of each Lease Year (as defined below) after the first Lease Year and on the first day of the next six (6) Lease Years ("Adjustment Date") by 3.5% of the previous year's Basic Monthly Rent. Commencing at the commencement of the seventh Lease Year and upon the first day of each Lease Year thereafter the Basic Monthly Rent shall be increased 5% over the Basic Monthly Rent for the previous Lease Year. When Basic Monthly Rent commences for the Phase II Premises it shall be calculated as if it had commenced on the same date as the Commencement Date for the Phase I Premises. Lease Year is defined to mean the first day of the first month following the twelve (12) month anniversary date ("Anniversary Date") of the Commencement Date applicable to Phase I.

An example of the calculation of Basic Monthly Rent after the Commencement Date of each phase follows:

Assumptions:

	Phase I	Phase II
Rentable Area	10,873 sq. ft.	10,873 sq. ft.
Commencement Date	February 1, 1994	January 1, 1996
Landlord TI Cost	$ 60.00	$ 65.00

On the Commencement Date for the Phase I Premises, Basic Monthly Rent for the Phase I Premises would be adjusted to account for the Landlord's share of Tenant Improvement Costs of $60.00. Thus, the Basic Monthly Rent of $1.90 per square foot of Rentable Area would be reduced to $1.80 per square foot of Rentable Area for a total Basic Monthly Rent of $19,571.40 per month from the Commencement Date of February 1, 1994 to the Anniversary Date of February 1, 1995. On February 1, 1995 the Basic Monthly Rent would be increased 3.5% to $20,256.40. On February 1, 1996 (the Anniversary Date of the Third Lease Year) the Basic Monthly Rent would be increased by 3.5% to $20,965.37.

On the Commencement Date for the Phase II Premises the Basic Monthly Rent would be adjusted to account for the Landlord's share of Tenant Improvement Costs for Phase II of $65.00. Thus, the Basic Monthly Rent of $1.90 per square foot of Rentable Area would be reduced to $1.85 per square foot of Rentable Area for a total of $20,115.04 per month. Although rent for the Phase II Premises would not be due until the Commencement Date for the Phase II Premises, which will be the earlier of substantial completion of the Tenant Improvements for the Phase II Premises or January 1, 1996, the calculation of the adjustment to Basic Monthly Rent would be made from February 1, 1994 (the Commencement Date of the Phase I Premises). Thus, the $20,819.08 would be increased by 3.5% as of January 1, 1995 to the amount of $20,819.08 and this amount would be increased as of January 1, 1996 by 3.5% to the amount of $21,547.74. Therefore, as of January 1, 1996, the total Basic Monthly Rent for Phase I and Phase II Premises would be $42,513.11. All further adjustments would be made to this amount.

3.3 Basic Monthly Rent During Extension. If and when Tenant exercises its Option to extend the Lease Term, the Basic Monthly Rent on the first day of such Extension shall be ninety-five percent (95%) of the "fair rental value" (as defined in Section 3.3.5 below) of the Premises, which fair rental value is to be determined as set forth in this Section 3.3.

3.3.1 Notice of Intent. Not sooner than one hundred twenty (120) days nor later than eighty-five (85) days prior to the date upon which a Notice of Exercise for an Option may be delivered ("Exercise Date"), Tenant shall deliver a written notice to Landlord of Tenant's intention to exercise the Option ("Notice of Intent"). Within ten (10) days after Landlord's receipt of the Notice of Intent, Landlord and Tenant shall meet in an effort to negotiate, in good faith, the fair rental value of the Premises as of the date when the Extension would commence ("Rental Adjustment Date"). If Landlord and Tenant have not agreed upon the fair rental value of the Premises within ten (10) days of the Landlord's receipt of a Notice of Intent, the fair rental value shall be determined by appraisal.

3.3.2 Appraisal Procedure. Landlord and Tenant shall attempt to agree in good faith upon a single appraiser within fifteen (15) days after Landlord's receipt of a Notice of Intent. If Landlord and Tenant are unable to agree upon a single appraiser within such time period, then Landlord and Tenant shall each appoint one appraiser within twenty (20) days after Landlord's receipt of a Notice of Intent. Within ten (10) days thereafter, the two appointed appraisers shall appoint a third appraiser. If the two appraisers cannot agree upon selection of a third appraiser within this ten (10) day period, then Landlord shall submit the appointment of a third appraiser to the American Arbitration Association, who shall appoint an appraiser meeting the requirements of Section 3.3.4, as the third appraiser. Notwithstanding anything with respect to the appraisal process or the selection of the appraiser(s) (including, without limitation, the time period required to appoint a third appraiser), no extension of the final date upon which Tenant may deliver a Notice of Exercise shall be permitted.

3.3.3 Selection. If either Landlord or Tenant fails to appoint its appraiser within the prescribed time period, the single appraiser appointed shall determine the fair rental value of the Premises. If both parties fail to appoint appraisers within the prescribed time periods, then the first appraiser thereafter selected by a party shall determine the fair rental value of the Premises.

3.3.4 Costs and Qualifications. Each party shall bear the cost of its own appraiser and the parties shall share equally the cost of the single or third appraiser, if applicable. All appraisers so designated herein shall have at least five (5) years experience in the appraisal of commercial/industrial real property in the San Diego area and shall be members of professional organizations such as MAI or equivalent.

3.3.5 Fair Rental Value Defined. The term "fair rental value" shall mean the price that a ready and willing tenant would pay, as of the applicable Rental Adjustment Date, as Basic Monthly Rent (on a triple net basis) to a ready and willing landlord of property comparable to the Premises for a term

comparable to the Extension period if such property were exposed for lease on the open market for a reasonable period of time and taking into account all of the purposes for which such property may be used, including free rent, tenant improvement costs or similar leasing expenses being offered in the market as of the applicable Rental Adjustment Date, and also considering leasing expenses and commissions which Landlord would incur.

3.3.6 Determination of Value. If a single appraiser is chosen, then such appraiser shall determine the fair rental value of the Premises. Otherwise, the fair rental value of the Premises shall be the arithmetic average of the two (2) of the three (3) appraisals which are closest in amount, and the third appraisal shall be disregarded.

3.3.7 Exercise of Option. Landlord and Tenant shall instruct the appraiser(s) to complete their determination of the fair rental value not later than fifty-five (55) days after Landlord's receipt of a Notice of Intent. When the fair rental value of the Premises is determined, Landlord shall deliver notice thereof to Tenant. Thereafter, Tenant may, but is not obligated to, in its sole and absolute discretion, considering the fair rental value determined as aforesaid, deliver its Notice of Exercise as described in Section 2.6 above.

3.3.8 Extension. During an Extension, after the Basic Monthly Rent is determined as set forth above, the Basic Monthly Rent during the remainder of the Extension shall be increased on the first day of the first month following the twelve month anniversary date of the Extension Term and on every twelve month (12) anniversary thereof during the Extension Term ("Adjustment Date") for a cost of living adjustment as set forth in Section 3.3.9 below.

3.3.9 Cost of Living Increases. The Basic Monthly Rent for the Extension Period shall be increased on the Adjustment Date in proportion to the increase in the Index (defined below) which has occurred between the month in which the previous year's adjustment was made and the Adjustment Date; provided, however, that the first such adjustment shall be in proportion to the increase in the Index which has occurred between the first month of the Extension Term and the month in which the Basic Monthly Rent is to be increased. Landlord shall notify Tenant of each increase by delivering a written statement setting forth the Index for the previous year's adjustment month or for the first month of the Extension Term, whichever is appropriate, the Index for the month in which the Basic Monthly Rent is to be increased, the percentage increase between those two Indices, and the new amount of the Basic Monthly Rent.

3.3.10 Effective Date. Tenant shall pay the new Basic Monthly Rent from the Adjustment Date until the next Adjustment Date. Landlord's notice may be given after the Adjustment Date since the Index for the appropriate month may be

unavailable on the Adjustment Date. In such event, Tenant shall pay Landlord the necessary rental adjustment for the months elapsed between the Adjustment Date of the increase and Landlord's notice of such increase within ten (10) business days after Landlord's notice.

3.3.11 Index. Adjustments shall be made utilizing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, Subgroup "All Items" for the Los Angeles-Anaheim-Riverside Statistical Area on the basis of 1982-84 = 100 (the "Index"). If the format or components of the Index are materially changed after the Date of Lease, Landlord shall substitute an index which is published by the Bureau of Labor Statistics or similar agency and which is most nearly equivalent to the Index in effect on the Date of Lease. Landlord shall notify Tenant of the substituted index.

3.3.12 Delay in Determination of New Basic Monthly Rent. If the new Basic Monthly Rent cannot be determined on the Adjustment Date, Tenant shall continue paying the Basic Monthly Rent payable during the preceding 12-month period until such time as the new Basic Monthly Rent is determined. When the new Basic Monthly Rent is determined, Tenant shall pay the new Basic Monthly Rent retroactive to the applicable Adjustment Date.

3.4 Security Deposit Requirements.

3.4.1 Deposit. Within ten (10) days after the date of execution of this Lease, Tenant shall deliver the Security Deposit in the amount set forth in Section 1.8 above to Landlord in the form of a letter of credit as set forth in Section 3.4.2 hereof. The Landlord may, but shall not be required to, apply all or part of the Security Deposit, by drawing upon the letter of credit, to any unpaid rent or other charges due from Tenant or to cure any other defaults of Tenant. If Landlord uses any part of the Security Deposit for such purposes, Tenant shall deposit additional funds to restore the Security Deposit to its full amount within ten (10) days after Landlord's written request, unless Tenant has a good faith dispute regarding the use of the Security Deposit, in which case Tenant shall not have the obligation to restore the Security Deposit until the earlier of the date of resolution of the dispute, or six (6) months after Landlord's initial written request. Tenant's failure to do so shall be a material default under this Lease. Tenant may not attempt to credit the Security Deposit to the last month's rent hereunder.

3.4.2 Letter of Credit. Within ten (10) days after the date of execution of this Lease, Tenant shall provide Landlord with an irrevocable and unconditional letter of credit ("Letter of Credit") in the amount of Three Hundred and Fifty Thousand and No/100 Dollars ($350,000.00), issued by a California bank previously approved by Landlord and substantially identical

in form to the sample letter of credit attached as Exhibit "F" as the Security Deposit. The Letter of Credit shall be irrevocable, unconditional and payable upon demand upon presentation of Landlord's draft, accompanied by the original Letter of Credit together with a notarized statement, signed by an authorized officer of Landlord, stating that Landlord has a right to draw upon the Letter of Credit. Partial drawings shall be permitted. Landlord shall have the right to draw on the Letter of Credit in the event that (a) Tenant is in default under this Lease after expiration of any grace period; or (b) Tenant fails to renew the Letter of Credit as least one (1) month prior to its expiration date. The Letter of Credit shall have an initial term of not less than twelve (12) months and shall be renewable for successive twelve month periods. If, upon the Date of Commencement, the final Tenant Improvements Cost paid by Landlord is less than Seven Hundred Thousand Dollars ($700,000.00), then the amount of the Letter of Credit may be reduced to an amount equal to one-half (1/2) of the final Tenant Improvement Cost paid by Landlord. The amount of the Letter of Credit (the lesser of Three Hundred Fifty Thousand Dollars ($350,000.00) or one-half (1/2) of the final Tenant Improvements Cost paid by Landlord) may be reduced by the following amounts on the following dates or events:

(a) On each anniversary of the Commencement Date of each Lease Year the Letter of Credit shall be reduced by twenty percent (20%) on a straight-line basis so that the Letter of Credit will be totally diminished by the fifth (5th) anniversary of the Commencement Date ("Annual Reductions"); and

(b) The Letter of Credit shall be reduced by twenty percent (20%) as each of the following events occur (each, an "Event Reduction"):

1. A private placement of Tenant's Capital Stock of $5,000,000 or more;
2. an initial public offering (IPO) of Tenant's Common Stock with aggregate net proceeds of $10,000,000 or more;
3. a corporate partnering transaction or joint venture of $5,000,000 or more which may consist of, but is not limited to, license payments, cost sharing payments, milestone payments or equity investment;
4. the Tenant achieves product sales, excluding any contract revenues or licensing fees, of at least $1,000,000; and

5. the Tenant achieves revenues (determined in accordance with generally accepted accounting principles) from product sales, excluding any contract revenues and licensing fees, equal to or greater than its expenses in any two consecutive fiscal quarters (pretax).

Notwithstanding anything to the contrary in this Section 3.4.2, the Letter of Credit shall at all times be maintained in an amount at least equal to the Basic Monthly Rent for the Phase I Premises. If an Annual Reduction or Event Reduction would otherwise result in a reduction of the Letter of Credit to an amount which is less than the amount equal to the Basic Monthly Rent for the Phase I Premises, then the Letter of Credit shall be reduced only to an amount equal to the Basic Monthly Rent for the Phase I Premises.

(c) If the above Event Reductions are achieved at any time during a Lease Year, the Annual Reduction that would otherwise occur in such Lease Year shall not occur. However, if an Event Reduction does not occur in a Lease Year, then the Annual Reduction shall occur in such Lease Year. However, two or more Event Reductions may occur in any Lease Year.

3.4.3 Increase in Deposit. Not less than ten (10) days prior to the commencement of the Tenant Improvements for Phase II of the Premises, Tenant shall deliver to Landlord a second Letter of Credit ("Phase II Letter of Credit") equal to Three Hundred Fifty Thousand Dollars ($350,000.00). If, upon the Commencement Date for the Phase II Premises, the final Tenant Improvements Cost for the Phase II Premises paid by Landlord is less than Seven Hundred Thousand Dollars ($700,000.00) then the amount of the Letter of Credit may be reduced to an amount equal to one-half (1/2) of the final Tenant Improvements Cost for Phase II paid by Landlord; The Phase II Letter of Credit required in this Section 3.4.3 shall be in addition to any Letter of Credit required pursuant to Section 3.4.2, and shall meet all requirements for the Letter of Credit in Section 3.4.2 (other than amount). The amount of Phase II Letter of Credit (the lesser of Three Hundred Fifty Thousand Dollars ($350,000.00) or one-half (1/2) of the final Tenant Improvements Cost for Phase II paid by Landlord) shall be reduced by the following amounts on the following dates or events:

(a) On each anniversary of the Commencement Date for the Phase II Premises, the Phase II Letter of Credit shall be reduced by twenty (20%) on a straight-line basis so that the Phase II Letter of Credit will be totally diminished by the fifth anniversary of the Commencement Date for the Phase II Premises ("Phase II Annual Reductions"); and

(b) The Phase II Letter of Credit shall be reduced by twenty percent (20%) as each of the following events occur (each, a "Phase II Event Reduction):

1. A second corporate partnering transaction of joint venture of $5,000,000 or more which may consist of, but is not limited to, license payments, cost sharing payments, milestone payments or equity investment;
2. Tenant achieves FDA approval of Tenant's second drug product;
3. Tenant achieves product sales, excluding any contract revenues and licensing fees, of $5,000,000 or more;
4. Tenant achieves product sales, excluding any contract revenues and licensing fees, of $10,000,000 or more; and
5. Tenant achieves product sales, excluding any contract revenues and licensing fees, of $15,000,000 or more.

As provided in Section 3.4.2(c) above, a Phase II Annual Reduction will not occur in any Lease Year in which a Phase II Event Reduction occurs. However, two or more Phase II Event Reductions may occur in any Lease Year. Notwithstanding anything to the contrary in this Section 3.4.3, the Phase II Letter of Credit shall at all times be maintained in an amount at least equal to the Basic Monthly Rent for the Phase II Premises. If an Annual Reduction or Event Reduction would otherwise result in a reduction of the Phase II Letter of Credit to an amount which is less than the amount equal to the Basic Monthly Rent, then the Phase II Letter of Credit shall be reduced only to an amount equal to the Basic Monthly Rent.

3.4.4 Termination; Advance Payments. Upon termination of this Lease under Article VIII (Damage or Destruction), Article IX (Eminent Domain) or any other termination not resulting from Tenant's default, and after Tenant has vacated the Premises in the manner required by this Lease, an equitable adjustment shall be made concerning advance rent, and any other advance payments made by Tenant to Landlord, and accrued real property taxes, and Landlord shall return the Letter of Credit to Tenant or Tenant's successor.

IV
ADDITIONAL RENT

4.1 Additional Rent. All charges payable by Tenant other than Basic Monthly Rent are called "Additional Rent" and shall be in United States currency. Unless this Lease provides otherwise, all Additional Rent shall be paid with the next monthly installment of Basic Monthly Rent. The term "Rent" shall mean Basic Monthly Rent and Additional Rent.

4.2 Real Property Taxes.

4.2.1 Payment of Taxes. Tenant shall pay its proportionate share of all Real Property Taxes (as defined below) levied and assessed against the Project of which the Premises are a part. Tenant's proportionate share of Real Property Taxes shall be the ratio that the total number of square feet in the Floor Area bears to the total number of rentable square feet in the Project both as set forth in Section 1.4. Such ratio is set forth in Subsection 1.9.4 of the Lease. Each year Landlord shall notify Tenant of Landlord's calculation of Tenant's proportionate share of the Real Property Taxes and together with such notice shall furnish Tenant with a copy of the tax bill. If any supplemental tax bills are delivered with respect to the Project, Landlord may notify Tenant of Landlord's new calculation of Tenant's proportionate share of Real Property Taxes as soon as such supplemental tax bill is received. Subject to Section 4.4.5.1 below, and provided that Landlord has provided the notices set forth in this Section 4.2.1, Tenant shall reimburse Landlord for Tenant's proportionate share of the Real Property Taxes semiannually no later than fifteen (15.) days before the taxing authority's delinquency date.

4.2.2 Definition of "Real Property Tax." "Real Property Tax" means: (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agriculture, lighting, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord in the Project; (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Project or against Landlord's business of leasing the Project; (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Project by any governmental agency; (iv) any tax imposed upon this transaction and any tax based upon a reassessment of the Project due to a change in ownership or transfer of all or part of Landlord's interest in the Project; and (v) any charge or fee replacing any tax previously included within the definition of Real Property Tax. "Real Property Tax" does not, however, include Landlord's federal or state income, franchise, inheritance or estate taxes.

4.2.3 Personal Property Taxes.

(a) Tenant shall pay prior to delinquency, all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant. Tenant shall attempt to have such personal property taxed separately from the Premises.

(b) If any such taxes on Tenant's personal property are levied against Landlord or Landlord's Premises, or if the assessed value of the Project is increased by the inclusion therein of a value placed upon such personal property or trade fixtures of Tenant, then Landlord, after written notice to Tenant, shall have the right to pay the taxes based upon such increased assessments, regardless of the validity thereof, but only under proper protest if requested by Tenant in writing. If Landlord shall do so, then Tenant shall, upon demand, repay to Landlord the taxes levied against Landlord, or the proportion of such taxes resulting from such increase in the assessment. In any such event, however, Tenant, at Tenant's sole cost and expense, shall have the right, in the name of Landlord and with Landlord's full cooperation, to bring suit in any court of competent jurisdiction to recover the amount of any such taxes so paid under protest; any amount so recovered to belong to Tenant.

(c) If any of Tenant's personal property is taxed with the Project, Tenant shall pay Landlord the taxes for the personal property within fifteen (15) days after Tenant receives a written statement from Landlord for such personal property taxes.

4.3 Utilities. The parties acknowledge that a separate metering system shall be installed in the Building as a part of the Tenant Improvements which will separately meter gas and electricity for, but not limited to, light, heat, ventilation and air conditioning services supplied to the Premises. Tenant shall arrange for and pay, directly to the appropriate supplier, the cost of all of such services supplied to the Premises. A submeter will meter water and sewer supplied to the Premises. Upon Landlord's receipt of a statement of charges for water and sewer to the Building, Landlord will deliver to Tenant a written statement setting forth the cost and Tenant's share based on Tenant's pro rata share. Tenant shall reimburse Landlord within fifteen (15) days for the water and sewer charge incurred. Tenant's pro rata share shall be calculated by dividing Tenant's Rentable Area by the aggregate rentable area within the Building, whether or not currently leased upon the date the computation is made, each as set forth in Section 1.4 above. Such ratio shall be the same as the ratio for Tenant's share of Building Operating Costs set forth in Subsection 1.9.3 above. Tenant shall arrange for and pay, directly to the appropriate supplier, the cost of any and all telephone installation and service supplied to the Premises.

4.4 Common Areas.

4.4.1 Definition; Location. As used in this Lease, "Project Common Areas" shall mean all areas within the Project, not including Building Common Areas (as hereinafter defined) , and "Building Common Areas" shall mean all areas within the Building, which are available for the common use of tenants of the Project and/or the Building and which are not leased or held for the exclusive use of Tenant or other tenants of the Project and/or the Building, including, but not limited to, parking areas, driveways, sidewalks, loading areas, retaining walls, truck serviceways, pedestrian malls, stairs, ramps, rest-rooms, access roads, corridors, landscaping and planted areas. The Project Common Areas and the Building Common Areas may sometimes collectively be referred to as the "Common Areas." Landlord may from time to time reasonably change the size, location, nature and use of the Common Areas, including converting Common Areas into leasable areas, constructing additional parking facilities (including parking structures) in the Common Areas, and increasing or decreasing Common Area land and/or facilities. Tenant acknowledges that such activities may result in occasional inconvenience to Tenant from time to time. Such activities and changes shall be expressly permitted if they do not materially affect Tenant's use of the Premises and/or significantly impact Tenant's access and use of Common Areas, subject to Subsection 4.4.2 below.

4.4.2 Use of Common Areas. Tenant shall have the non-exclusive right (in common with other tenants and all others to whom Landlord has granted or may grant such rights) to use the Common Areas for the purposes intended, subject to such reasonable rules and regulations as Landlord may establish from time to time. Tenant shall abide by such rules and regulations and shall use its best efforts to cause others who use the Common Areas with Tenant's expressed or implied permission to abide by Landlord's rules and regulations. At any time, Landlord may close any Common Areas to perform any acts in and to the Common Areas as, in Landlord's judgment, may be desirable to improve the Project or the Building. Tenant hereby releases Landlord from any and all claims pertaining to reasonable construction, alteration or improvement of the Common Areas. Tenant shall not, at any time, intentionally interfere with the rights of Landlord, other tenants, or any other person entitled to use the Common Areas.

4.4.3 Vehicle Parking. Tenant shall be entitled to use up to four (4) vehicle parking spaces in the subterranean parking garage of the Building for each 1,000 (one thousand) square feet of Rentable Area within the Premises without paying any additional Rent during the Initial Lease Term. Tenant's parking shall not be reserved and shall be limited to vehicles no larger than standard size auto-mobiles or pickup utility vehicles. Without Landlord's consent, (a) Tenant shall not cause

a regular pattern of parking large trucks or other large vehicles within the Project or on the adjacent public streets except for normal pickup or delivery services to Tenant and (b) Tenant shall not leave vehicles in the parking areas for more than twenty-four (24) hours on a regular or consistent basis. Landlord shall notify Tenant in the event Landlord believes that prohibited parking habits or patterns are being developed by Tenant. Vehicles shall be parked only in striped parking spaces and not in driveways, loading areas or other locations not specifically designated for parking. If Tenant parks more vehicles in the parking area than the number identified herein, such conduct shall be a breach of the Lease. Tenant shall not utilize the subterranean garage of the Building, or any portion thereof, for storage space.

4.4.4 Project Operating Expenses. Landlord shall maintain the Project Common Areas in good order, condition and repair and shall operate the Project, in Landlord's reasonable discretion, as a first class industrial/commercial real property development. Tenant shall pay Tenant's pro rata share (as defined below) of all costs reasonably incurred by Landlord generally in accordance with customary practices for similar projects in San Diego County for the operation and maintenance of the Project Common Areas ("Project Operating Expenses"). Project Operating Expenses include, but are not limited to, costs and expenses for the following: gardening and landscape maintenance; pest extermination services; utilities, water and sewage charges; maintenance of parking areas; fees, charges and other costs (including consulting, accounting and legal fees) reasonably necessary to manage the Project; costs of compliance with any and all governmental laws, ordinances, and regulations applicable to the Project; maintenance of signs (other than Tenant's signs); premiums for liability, property damage, fire and other types of casualty insurance on the Project Common Areas and all Project Common Area improvements; all personal property taxes levied on or attributable to personal property used in connection with the Project Common Areas; rental or lease payments paid by Landlord for rented or leased personal property used in the operation or maintenance of the Project Common Areas; fees for management and supervision of the Project and Common Areas (not to exceed five percent (5%) of the annual rent for the Project); fees for required licenses and permits; repairing, resurfacing, repaving, maintaining, painting, lighting, cleaning, refuse removal, security and similar items; and reserves (not to exceed five percent (5%) of all other Project Operating Expenses). Landlord may cause any or all of such services to be provided by third parties, or by entities associated with Landlord. Landlord may, at Landlord's election, estimate in advance and charge to Tenant monthly as Project Operating Expenses, all real property taxes for which Tenant is liable under the Lease, all insurance premiums for which Tenant is liable under the Lease, and all maintenance and repair costs for which Tenant is liable under the Lease.

4.4.5 Tenant's Share and Payment of Project Operating Expenses. Tenant shall pay Tenant's annual pro rata share of all estimated Project Operating Expenses, in advance, in monthly installments on the first day of each month during the Lease Term (prorated for any fractional month). Tenant's pro rata share is calculated by dividing the rentable area within the Floor Area by the aggregate rentable area within the Project, whether or not currently leased upon the date the computation is made, each as set forth in Section 1.4 above. Such ratio is set forth in Subsection 1.9.4 of the Lease. Landlord may adjust such estimates at any time and from time to time based upon Landlord's experience and reasonable anticipation of costs. Such adjustments shall be effective as of the next rent payment date after notice to Tenant. Within a reasonable time after the end of each calendar year of the Lease Term, Landlord shall deliver to Tenant a statement, prepared in accordance with generally accepted accounting principles, setting forth, in reasonable detail, the actual Project Operating Expenses paid or incurred by Landlord during the preceding calendar year and Tenant's pro rata share. Upon receipt of such statement, there shall be an adjustment between Landlord and Tenant with payment to or credit given by Landlord (as the case may be) so that Landlord shall receive the entire amount of Tenant's share of such costs. Landlord shall also make available for Tenant's review, the records and books upon which such statement is based.

4.4.5.1 Alternative Payment. Notwithstanding the foregoing, Landlord has the right to notify Tenant on a monthly or other basis of the actual amount Landlord has expended for all Project Operating Expenses incurred during the previous month or period. Such notice shall also set forth Tenant's pro rata share of such actual costs. Upon receipt of such statement, Tenant shall pay with the next monthly installment of Basic Monthly Rent Tenant's pro rata share of the actual Project Operating Expenses incurred during the previous month or period.

4.4.5.2 1992 Operating Costs. Landlord has provided Tenant with a report of Project Operating Costs for 1992 and forecasted Project Operating Costs for 1993 for Tenant's review, without any warranty or representation that future Project Operating Costs will be similar to the Project Operating Costs for 1992 or to the forecasted 1993 Project Operating Costs.

4.4.5.3 Project Operating Expenses Cap. Notwithstanding anything to the contrary in this Section 4.4.5, Tenant shall have no obligation to pay Tenant's pro-rata share of Project Operating Expenses to the extent (but only to the extent) that the Project Operating Costs for any calendar year (excluding Real Property Taxes and insurance premiums) increase by more than ten percent (10%) per annum, cumulative, compounded annually, over the Project Operating Expenses (excluding Real Property Taxes and insurance premiums) for calendar year 1993. Tenant shall be obligated to pay Tenant's full pro-rata share of Real Property Taxes and insurance premiums without regard to the percent of increase of such expenses over the amounts incurred by Landlord in calendar year 1993.

4.4.6 Building Operating Costs. Landlord shall maintain the Building Common Areas in good order, condition and repair. Tenant shall pay Tenant's pro rata share (as defined below) of all costs reasonably incurred by Landlord generally in accordance with customary practices for similar buildings in San Diego County for the operation and maintenance of the Building Common Areas and for the services provided by Landlord pursuant to Section 6.2 below ("Building Operating Costs"). Building Operating Costs include, but are not limited to, costs and expenses for the following: services provided by Landlord pursuant to Section 6.2 below, pest extermination services; utilities, water and sewage charges; maintenance of parking areas; premiums for liability, property damage, fire and other types of casualty insurance on the Building Common Areas and all Building Common Area improvements; all personal property taxes levied on or attributable to personal property used in connection with the Building Common Areas; rental or lease payments paid by Landlord for rented or leased personal property used in the operation or maintenance of the Building Common Areas; fees for required licenses and permits; repairing, resurfacing, repaving, maintaining, painting, lighting, cleaning, refuse removal, security and similar items; reasonable reserves; provided, however, that Building Operating Costs shall not include any costs included in Project Operating Expenses. Landlord may cause any or all of such services to be provided by third parties, or by entities associated with Landlord. Landlord may, at Landlord's election, estimate in advance and charge to Tenant monthly as Building Operating Costs, all real property taxes for which Tenant is liable under the Lease, all insurance premiums for which Tenant is liable under the Lease, and all maintenance and repair costs for which Tenant is liable under the Lease.

4.4.7 Tenant's Share and Payment of Building Operating Costs. Tenant shall pay Tenant's annual pro rata share of all estimated Building Operating Costs, in advance, in monthly installments on the first day of each month during the Lease Term (prorated for any fractional month). Tenant's pro rata share is calculated by dividing the rentable area within the Floor Area by the aggregate rentable area within the Building, whether or not currently leased upon the date the computation is made, each as set forth in Section 1.4 above. Such ratio is set forth in Subsection 1.9.3 of the Lease. Landlord may adjust such estimates at any time and from time to time based upon Landlord's experience and reasonable anticipation of costs. Such adjustments shall be effective as of the next Basic Monthly Rent payment date after notice to Tenant. Within a reasonable time after the end of each calendar year of the Lease Term, Landlord shall deliver to Tenant a statement prepared in accordance with generally accepted accounting principles setting forth, in reasonable detail, the actual Building Operating Costs paid or incurred by Landlord during the preceding calendar year and

Tenant's pro rata share. Upon receipt of such statement, there shall be an adjustment between Landlord and Tenant with payment to or credit given by Landlord (as the case may be) so that Landlord shall receive the entire amount of Tenant's pro rata share of such costs. Landlord shall also make available for Tenant's review, the records and books upon which such statement is based.

4.4.7.1 Alternative Payment. Notwithstanding the foregoing, Landlord has the right to notify Tenant on a monthly or other basis of the actual amount Landlord has expended for all Building Operating Costs incurred during the previous month or period. Such notice shall also set forth Tenant's pro rata share of such actual costs. Upon receipt of such statement, Tenant shall pay with the next monthly installment of Basic Monthly Rent Tenant's pro rata share of the actual Building Operating Costs incurred during the previous month or period.

4.4.7.2 1992 Building Operating Costs. Landlord has provided Tenant with a report of Building Operating Costs of 1992 and forecasted Building Operating Costs for 1993 for Tenant's review, without any representation or warranty that future Building Operating Costs will be similar to Building Operating Costs for 1992 or to forecasted 1993 Building Operating Costs.

4.4.7.3 Building Operating Expense Cap. Notwithstanding anything to the contrary in this Section 4.4.7, Tenant shall not have an obligation to pay Tenant's pro-rata share of Building Operating Expenses to the extent (but only to the extent) that the Building Operating Expenses (excluding any Real Property Taxes or insurance premiums) increase by more than ten percent (10%) per annum, cumulative, compounded annually, over the Building Operating Expenses (excluding any Real Property Taxes and insurance premiums) for calendar year 1993. Tenant shall be obligated to pay Tenant's full pro-rata share of Real Property Taxes and insurance premiums without regard to the percent of increase of such expenses over the amounts incurred by Landlord in calendar year 1993.

4.4.8 Exceptions to Operating Expenses. Notwithstanding the foregoing, the following shall not be included as Building Operating Costs or Project Operating Costs:

(a) repairs or other work occasioned by fire, windstorm or other casualty (except for the cost of such repairs or other work that relates to the deductible portion of the insurance policy covering such casualty) or by the exercise of the right of eminent domain;

(b) the cost of repairing any defects in the design, materials or workmanship of the Premises or the Building;

(c) leasing commissions, accountants' or attorneys' fees, costs and disbursement and other expenses incurred in connection with proposals, negotiations, or disputes with tenants associated with the enforcement of any leases, disputes with contractors, or the defense of Landlord's title to or interest in the Building or any part thereof;

(d) any amounts reimbursed by or charged exclusively to another tenant in the building;

(e) costs (including permit, license and inspection fees) incurred in constructing tenant improvements or decorating, painting or redecorating space for tenants or other occupants or vacant rentable space;

(f) depreciation and amortization;

(g) costs of a capital nature, including, but not limited to, capital improvements, capital repairs, capital equipment, and capital tools, all as determined in accordance with generally accepted accounting principles (provided however, that capital expenditures necessary to effect labor savings or otherwise reduce the cost of operation and maintenance of the Building may be included only to the extent of such savings);

(h) costs incurred due to violation by Landlord or any tenant of the terms and conditions of any lease or due to the negligence of wrongful misconduct of Landlord, its agents, employees or contractors;

(i) interest or debt or amortization payments on any mortgages or deeds of trust or any other borrowings;

(j) Landlord's general corporate overhead and general administrative expenses;

(k) the cost, including permit, license and inspection fees, of renovating or otherwise improving or decorating, painting or redecorating vacant space or space for other tenants or other occupants;

(1) rentals and other related expenses (other than taxes and insurance) incurred in leasing window washing equipment, air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, except equipment that is presently leased for use in or providing services to the Real Property or normally leased by landlords of comparable buildings in the San Diego area and charged to tenants as an item of expenses, or that is used in providing security, operational, and maintenance services;

(m) advertising and promotional expenditures; and

(n) costs or fines arising from Landlord's violation of any governmental rule or authority, including without limitation, the costs of correcting any code violations which were violations prior to the commencement of the term.

4.4.9 Audit. Tenant shall have the right to audit the calculations of Building Operating Costs and Project Operating Costs within three (3) months after delivery of the statement of Building Operating Costs and Project Operating Costs to Tenant. The costs of such audit shall be borne by Tenant unless the audit shows an overcharge of more than ten percent (10%) in the aggregate, in which case the cost of the audit shall be borne by Landlord.

4.4.10 Project Security. Landlord shall provide, as part of the Project Operating Expenses and Building Operating Costs, twenty-four (24) hour security for the Project. The Building will be locked during non-business hours. Tenant shall have access to the Premises after normal building hours.

4.5 Late Charges. Tenant's failure to pay rent promptly may cause Landlord to incur unanticipated costs. The exact amount of such costs are impractical or extremely difficult to ascertain. Such costs may include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by any ground sublease, mortgage or trust deed encumbering the Premises. Therefore, if Landlord does not receive any rent payment within ten (10) days after it becomes due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment. Landlord agrees that the late charge shall not be charged on the first late payment in any period of twelve consecutive months.

4.5.1 Repeated Late Charges. In the event that a late charge is payable under this Lease, whether or not collected, for two installments of Basic Monthly Rent during any one calendar year of the Lease Term, then the Basic Monthly Rent shall automatically become due and payable quarterly in advance, rather than monthly, for the next succeeding twelve (12) months. All monies paid to Landlord under this provision may be commingled with other monies of Landlord and shall not bear interest.

4.6 Interest on Past Due Obligations. Any amount owed by Tenant to Landlord which is not paid within ten (10) days of its due date shall bear interest at the rate of fifteen percent (15%) per annum or at the highest rate then permitted by law, whichever is less, from the due date of such amount. However, interest shall not be payable on late charges to be paid by Tenant under this Lease. The payment of interest on such amounts shall not excuse or cure any default by Tenant under this Lease.

V
USE OF PREMISES

5.1 Permitted Uses. Tenant may use the Premises only for the Permitted Uses set forth in Section 1.6 above.

5.2 Manner of Use.

5.2.1 Objectionable Uses. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with or infringe on the rights of other occupants of the Building and/or the Project, or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, or objectionable purposes; nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises or commit or suffer to be committed any waste in, on or about the Premises. Landlord shall not be liable to Tenant for any other tenant's or occupant's failure to so conduct itself.

5.2.2 Non-permitted Uses. Tenant shall not do or permit to be done in or about the Premises, nor bring, keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated, or which is prohibited by any standard form of fire insurance policy or will in any way increase the existing rate of or affect any fire or other insurance upon the Building or any part thereof or any of its contents, or cause a cancellation of any insurance policy covering the Building or any part/thereof or any of its contents. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the Premises, and the requirements of any Board of Fire Underwriters or other similar body now or hereafter instituted; with any order, directive or certificate of occupancy issued pursuant to any law, ordinance or regulation by any public officer insofar as the same relates to or affects the condition, use or occupancy of the Premises, including but not limited to, requirements of structural changes related to or affected by Tenant's acts, particular manner of occupancy or manner of use of the Premises, all at Tenant's sole expense; provided, however, Landlord shall be responsible for making alterations or repairs to the Premises at its cost under the conditions described in Section 6.2.3 below. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Landlord, whether or not Tenant is a party to such action, shall be conclusive in establishing such violations between Landlord and Tenant.

5.2.3 Noxious Odors. Except as allowed pursuant to San Diego's Scientific Research Zoning Ordinance, Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner unreasonably offensive or objectionable to the Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein, nor shall any animals (except animals required for testing of Tenant's products, in limited quantities necessary for operation of Tenant's business operations) or birds be brought in or kept in or about the Premises or the Building. Other than hot plates, microwaves, or other household kitchen-type appliances ordinarily found in staff lunch rooms, no cooking shall be done or permitted by any Tenant on the Premises, nor shall the Premises be used for the storage of merchandise (except limited quantities of Tenant's products), for washing clothes (except washing of lab coats) or for lodging. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material; provided, however, that Tenant may store certain combustible materials required in production of Tenant's products, limited to quantities reasonably necessary for day-to-day operations. All such materials shall be stored and used in compliance with all laws and with the standards and practices and procedures applicable to their use. Tenant shall be strictly liable for the use and storage of all such materials on the Premises; except that Tenant shall not be liable for Landlord's gross negligence or willful misconduct involving such materials. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord.

5.2.4 Permit. Tenant shall obtain and pay for all permits required for Tenant's occupancy of the Premises and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the use by Tenant of the Premises, including the federal and California Occupational Health and Safety Acts.

5.3 Signs and Auctions.

5.3.1 Auction. Tenant shall not conduct, or permit to be conducted, any sale by auction on the Premises.

5.3.2 Prohibited Signs. Tenant shall not place, or suffer to be placed or maintained, on any exterior door, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door, or that can be seen through the glass of the Premises without Landlord's prior written approval. Such approval by Landlord shall not be unreasonably withheld. Landlord and Tenant acknowledge that Tenant shall be permitted to install a sign at its expense inside the Premises behind the

reception desk. Tenant acknowledges that in no instance shall a sign on the exterior walls of the Building be approved. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or thing as may be approved, in good condition and repair at all times.

5.3.3 Sign Criteria. Unless Tenant and Landlord agree otherwise, Landlord will install a directional sign for Tenant in the Project. Landlord's consent to and approval of such sign installation shall not be unreasonably withheld. Tenant shall be permitted to install a monument sign along North Torrey Pines Road provided that (i) Tenant obtains, at Tenant's sole cost and expense, all permits and governmental consents required for the monument sign, (ii) the location and design of the proposed monument sign have been approved by Landlord, (iii) Tenant, at Tenant's sole cost and expense, contracts for the construction of the monument sign with a contractor approved by Landlord, and (iv) Tenant pays for all other costs and expenses associated with the design, installation, or use of the sign and with the removal of the sign at the termination of this Lease. Tenant shall comply with any interior signage criteria established by Landlord for the Building and all interior signage shall be approved by Landlord which approval shall not be unreasonably withheld.

5.4 Hazardous Materials.

5.4.1 Prohibition of Storage. Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about the Premises or the Project by Tenant, its agents, employees, contractors or invitees in a manner or for a purpose prohibited by any governmental agency or authority. If Tenant breaches the obligation stated in the preceding sentence, or if the presence of Hazardous Materials on the Premises caused or permitted by Tenant (including Hazardous Materials specifically permitted and identified below) results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then, in addition to the obligations of Tenant set forth in Section 7.2 below, Tenant shall indemnify, defend and hold Landlord, its agents and contractors harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including without limitation diminution in value of the Premises or any portion of the Project, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises or Project, damages arising from any adverse impact on marketing of space in the Premises or the Project, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Lease Term as a result of such contamination. Landlord shall indemnify, defend and hold Tenant harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise from the contamination of the Premises by Hazardous Materials occurring prior to the Commencement Date.

5.4.1.1 Clean-up. This indemnification of Landlord by Tenant relating to causing or permitting any Hazardous Material to be brought upon, kept or used in or about the Premises or the Project by Tenant, its agents, employees, contractors or invitees in a manner or for a purpose prohibited by any governmental agency or authority, pursuant to Subsection 5.4.1 above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises, provided that Landlord's approval of such action shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or the Project.

5.4.1.2 Business. Landlord acknowledges that it is not the intent of this Section 5.4 to prohibit Tenant from operating its business as described in Section 1.6 above. Tenant may operate its business according to the custom of the industry so long as the use or presence of Hazardous Materials is strictly and properly monitored and accomplished according to all applicable governmental requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord prior to the Commencement Date a list identifying each type of Hazardous Material to be present on the Premises and setting forth any and all governmental approvals or permits required in connection with the presence of Hazardous Materials on the Premises ("Hazardous Materials List"). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year and shall also deliver an updated list before any new Hazardous Materials are brought onto the Premises or on or before the date Tenant obtains any additional permits or approvals. Landlord shall, upon Tenant's request, permit Tenant to review, but not copy, any hazardous materials lists received by Landlord from other Tenants in the Project provided that Tenant agrees to keep the contents of such lists confidential.

5.4.2 Termination of Lease. Notwithstanding the provisions of Subsection 5.4.1 above, Landlord shall have the right to terminate the Lease in Landlord's sole and absolute discretion in the event that (i) any anticipated use of the Premises by Tenant involves the generation or storage, use,

treatment or disposal of Hazardous Material in a manner or for a purpose prohibited by any governmental agency or authority; (ii) Tenant has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises if the contamination resulted from Tenant's action or use of the Premises (unless Tenant is diligently seeking compliance with such remedial action); or (iii) Tenant is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Material on the Premises (unless Tenant is diligently seeking compliance with such enforcement order).

5.4.3 Assignment and Subletting. Notwithstanding the provisions of Subsection 5.4.1 above, if (i) any anticipated use of the Premises by any proposed assignee or sublessee involves the generation or storage, use, treatment or disposal of Hazardous Material in a manner or for a purpose prohibited by any governmental agency or authority, (ii) the proposed assignee or sublessee has been required by any prior landlord, lender or governmental authority to take remedial action in connection with Hazardous Material contaminating a property if the contamination resulted from such party's action or use of the property in question or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Material, it shall not be unreasonable for Landlord to withhold its consent to an assignment or subletting to such proposed assignee or sublessee.

5.4.4 Condition. Landlord warrants that, to the best of its knowledge the Premises, the Project and the Common Areas do not contain any Hazardous Material which is being used or stored in a manner prohibited by any applicable governmental law, ordinance, rule or regulation relating to the use or storage of Hazardous Materials ("Hazardous Materials Laws"). If Landlord discovers that any violation of any Hazardous Materials Laws has occurred within the Project which Landlord reasonably determines affect or may affect the Premises or interfere with Tenant's business operations and is not being corrected, then Landlord shall promptly give Tenant written notice of such violation and shall use its best efforts to have such violation corrected in compliance with applicable Hazardous Materials Laws.

5.4.5 Landlord's Right to Perform Tests. At any time prior to the expiration of the Lease Term and upon Landlord's reasonable belief that certain water and soil tests are advisable, Landlord shall have the right following notice (except in the event of an emergency) to enter upon the Premises at all reasonable times in order to conduct appropriate tests of water and soil and to deliver to Tenant the results of such tests to attempt to demonstrate that contamination in excess of permissible levels has occurred as a result of Tenant's use of the Premises. Without limiting the foregoing sentence, Landlord shall have the right to have an environmental audit of the

Premises to be conducted within ninety (90) days prior to the scheduled expiration date of this Lease, or at termination of this Lease, if the Lease is terminated on a date other than the scheduled termination date. Tenant shall promptly perform any remedial action recommended by such environmental audit unless the audit reveals that the Hazardous Materials resulted from the activities of a person other than Tenant. The costs of such audits shall be borne by Landlord unless the audit discloses the existence of Hazardous Materials in excess of action levels or governmental standards, in which case the costs of the audit shall be borne by Tenant, unless the audit reveals that the Hazardous Materials resulted from the activities of a person other than Tenant. Tenant shall further be solely responsible for and shall defend, indemnify and hold the Landlord, its agents and contractors harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs, arising out of or in connection with any removal, cleanup, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials. The foregoing indemnity shall not apply, however, if Tenant establishes that the Hazardous Materials were present prior to the Commencement Date.

5.4.6 Tenant's Obligations. Tenant's and Landlord's obligations under this Section 5.4 shall survive the termination of the Lease, or any extension of the Lease Term. During any period of time employed by Tenant after the termination of this Lease to complete the removal from the Premises of any such Hazardous Materials, Tenant shall continue to pay the full rental in accordance with this Lease, which rental shall be prorated daily.

5.4.7 Definition of "Hazardous Material." As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 2, Chapter 6.8 (Carpenter-Presly-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance" or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) listed under Article 9 and defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal

Water Pollution Control Act (33 U.S.C. Section 1317), (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601).

5.5 Landlord's Access. Landlord or its agents may enter the Premises at all reasonable times to show the Premises to potential buyers, investors or other parties, or for any other purpose Landlord deems necessary. Landlord shall give Tenant 24 hours prior notice (which may be verbal) of such entry, except in the case of an emergency. Landlord acknowledges that access to clean rooms and other areas may be restricted to protect health and safety. In the event access to these areas by Landlord is necessary, Tenant will reasonably cooperate in performing those activities necessary to make the areas safe. Subject to the above, Landlord may place customary "For Sale" signs on the Premises. Landlord or its agents may enter the Premises at all reasonable times during the final year of the Lease Term to show the Premises to potential tenants. During the last year of the Lease Term, Landlord may place customary "For Lease" signs on the Premises.

5.6 Quiet Possession. If Tenant pays the rent and complies with all other terms of this Lease, Tenant may occupy and enjoy the Premises for the full Lease Term, subject to the provisions of this Lease.

5.7 Window Coverings. Landlord shall select a standard window covering for use throughout the Project, including all windows in the Premises; provided however that Landlord shall not require installation of window covering on the windows. If Tenant wishes to install window covering on the windows different from the standard covering, the window covering must be approved by Landlord, which approval will not be unreasonably withheld.

VI
CONDITION OF PREMISES; MAINTENANCE, REPAIRS AND ALTERATIONS

6.1 Condition of the Premises. Tenant accepts the Premises in their condition as of the execution of the Lease subject to any other provisions of this Lease and to all laws, ordinances, and governmental regulations and orders. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant's intended use.

6.2 Landlord's Provision of Services.

6.2.1 Electric Service. Landlord shall furnish to the Premises, subject to interruption beyond Landlord's control, electric current for normal lighting and usual and normal office machines. Tenant shall be responsible for paying the cost of any electrical service which is supplied to the Premises. At all times, Tenant's use of electric current shall not exceed the capacity of the feeders to the Building or the risers or wiring installed therein.

6.2.2 Maintenance and Repair Service. Landlord shall be responsible for the maintenance and repair of all portions of the Premises for which Tenant is not obligated, including, but not limited to, structural portions of the Premises. As used herein, structural portions of the Premises shall only refer to the foundation and slabs, exterior walls, and exterior roof of the Building in which the Premises are located. Landlord shall also be responsible for making alterations to the portions of the Premises which Landlord is required to maintain or repair if such alterations are required by changes in the law after the Commencement Date, are not required as the result of Tenant's particular manner of occupancy or manner of use of the Premises and are of the type which are customarily made or are required to be made by landlords and not by tenants. If Landlord is required to make repairs to the Premises by reason of Tenant's conduct or activities, Landlord may add the cost of such repairs to the Rent which shall thereafter become due. Landlord shall keep the Premises (except for Tenant Improvements (as defined herein), in good order, condition and repair during the Lease Term. In the event the Premises are serviced by a separate heating and air conditioning unit or system, Tenant shall, at Tenant's expense, regularly inspect and maintain the system, including leaks around ducts, pipes, vents, or other parts of the system. Tenant shall provide Landlord with a copy of its contract for said service and with a copy of the service logs maintained by the contractor. Landlord shall have no obligation to provide repair or maintenance services to any area which Tenant may, from time to time, designate as a restricted area. Landlord shall use Landlord's best efforts to conduct repairs and maintenance in a manner which does not unreasonably impact Tenant's business operations.

6.3 Tenant's Obligations.

6.3.1 Maintenance and Repair. Tenant shall keep all Tenant Improvements installed on the Premises in good order, condition and repair during the Lease Term. In the event that Tenant desires to make any penetrations of the roof to the Premises in connection with providing special heating or ventilation needs of Tenant, Tenant shall first obtain the prior written consent of Landlord, shall perform such work at its sole cost and expense, and, in such event, shall be fully responsible and liable for the cost of maintaining, repairing, and replacing any such additional heating or ventilation items, including, but not limited to, ensuring that the penetrations shall not cause any damage to the roof, the Building or the Premises. It is the intention of Landlord and Tenant that, at all times during the Lease Term, Tenant shall maintain all Tenant Improvements in an attractive, first-class and fully operative condition.

6.3.2 Tenant Expense. All of Tenant's obligations to maintain and repair shall be accomplished at Tenant's sole expense. If Tenant refuses or neglects to repair properly as required hereunder and to the reasonable satisfaction of Landlord, Landlord may, on ten (10) days' prior notice (except that no notice shall be required in case of emergency) enter the Premises and perform such repair and maintenance on behalf of Tenant without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs plus twenty percent (20%) for overhead, upon presentation of bill therefore, as Additional Rent. Said bill shall include interest at ten percent (10%) on said costs from the date of completion of repairs by Landlord.

6.3.3 Cleaning Service. Tenant shall provide at Tenant's expense any janitorial services required by reason of Tenant's use of the Premises or by reason of improvements in the Premises.

6.4 Alterations, Additions, and Improvements .

6.4.1 Procedure for Making Alterations. Tenant shall not make any alterations, additions or improvements to the Premises without Landlord's prior written consent, except for non-structural alterations which do not affect the mechanical, electrical, heating, venting and air conditioning or plumbing systems (collectively, the "Building Systems") and which do not exceed Five Thousand Dollars ($5,000) in cost for each alteration and which are not visible from the outside of the Building. Tenant shall give Landlord notice of all alterations, additions or improvements not requiring Landlord's advance written consent. Landlord shall give written notification to Tenant of Landlord's reasonable approval or disapproval of alterations, additions or

improvements which affect the Building Systems or affect structural components of the Building or otherwise require consent within seven (7) working days of Landlord's receipt of reasonably detailed plans thereof. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount satisfactory to Landlord. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Subsection upon Landlord's written request. All alterations, additions, and improvements will be accomplished in good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord. Upon completion of any such work, Tenant shall provide Landlord with marked up shop drawings, copies of all construction contracts, and proof of payment for all labor and materials. Any additions to, or alterations of, the Premises shall become at once a part of the Premises and belong to Landlord, except (i) moveable furniture and (ii) trade fixtures and items listed in Tenant's Final Plans for the Tenant Improvements or any phase thereof which Landlord has agreed in writing, at the time of approval of such Final Plans, may be removed by Tenant at the end of the Lease Term. However, this shall not prevent the Tenant from installing trade fixtures, machinery or other trade equipment in conformance with all applicable city and county ordinances, and the same may be removed upon the termination of this Lease, provided Tenant provides a list of the trade fixtures it intends to install and remove to Landlord, Landlord has approved such list in writing, the Premises are not damaged by such removal, and Tenant shall not then be in default under the terms and conditions of this Lease.

6.4.2 Conditions to Landlord's Approval. Any alterations, improvements, additions or utility installations in or about the Premises that Tenant shall desire to make and which requires the consent of Landlord shall be presented to Landlord in written form, with detailed plans for the proposed work. If Landlord shall give its consent thereto, the consent shall be deemed conditioned upon Tenant's (1) acquiring a permit to do so from appropriate governmental agencies, (2) furnishing of a copy thereof to Landlord prior to the commencement of the work and (3) complying with all conditions of said permit in a prompt and expeditious manner.

6.4.3 Payment by Tenant. Tenant shall pay when due all claims for labor and material furnished to the Premises. Tenant shall give Landlord at least fifteen (15) days' prior written notice of the commencement of any work on the Premises whether or not Landlord's consent to such work is required. Landlord may elect to record and post notices of nonresponsibility on the Premises.

6.4.4 Freedom From Liens. Tenant shall keep the Premises, all other property therein and the Building free from any liens arising out of any work performed, material furnished or obligations incurred by Tenant, and shall indemnify, hold

harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. In the event that Tenant shall not, within thirty (30) days following the imposition of any such lien, cause such lien to be released of record by payment or, if Tenant has a good faith dispute with regard to such lien, by posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but no obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith, including attorneys' fees and costs, shall be payable to Landlord by Tenant on demand with interest at the maximum rate allowed by law.

6.5 Rules and Regulations.

6.5.1 The Tenant agrees as follows:

(1) Landlord shall arrange for a trash collection service which will provide and periodically empty trash containers placed in designated areas for use by Tenant and other tenants in the Project. Tenant shall be responsible for placing all of its garbage and trash in such trash containers.

(2) No aerial shall be erected on the roof or exterior walls of the Premises, or on the grounds, without in each instance, the written consent of the Landlord. Any aerial so installed without such written consent shall be subject to removal without notice at any time.

(3) No loud speakers, televisions, phonographs, radios, or other devices shall be used in a manner so as to be heard or seen outside of the Premises without the prior written consent of the Landlord.

(4) Tenant shall keep the outside areas immediately adjoining the Premises clean and free from dirt and rubbish caused by the Tenant or the Tenant's employees, invitees, agents or guests, to the satisfaction of the Landlord and Tenant shall not place or permit any obstruction or materials in such areas. No exterior storage shall be allowed without permission in writing from Landlord.

(5) The plumbing facilities may be used in any manner consistent with all governmental rules, regulations, ordinances, and statutes, and shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant, who shall, or whose employees, agents or invitees shall have caused it.

(6) Tenant shall not burn any trash or garbage of any kind in or about the Premises, or the Project.

(7) The sidewalks, halls, passages, exits, entrances, and stairways in and about the Project shall not be obstructed by any of the Tenants or used by them for any purpose other than for ingress to and egress from their respective premises. The halls, passages, exits, entrances, stairways, balconies and roof are not for the use of the general public and the Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence in the judgment of the Landlord shall be prejudicial to the safety, character, reputation and interests of the Project and its tenants, provided that nothing herein contained shall be constructed to prevent such access to persons with whom the Tenant normally deals in the ordinary course of Tenant's business unless such persons are engaged in illegal activities. No Tenant and no employees or invitees of any Tenant shall go upon the roof of the Building except in case of an emergency or unless permitted pursuant to a Roof Access Rider in the form of Exhibit "E" executed by Tenant.

(8) Except for clean room doors, no additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in existing locks or the mechanisms thereof without the advance written consent of Landlord. Tenant shall provide Landlord with keys to any approved Tenant installed locks or mechanisms (except those in any clean room(s)) to permit Landlord to have access at all times to the Premises. Tenant must, upon the termination of Tenant's tenancy, restore to Landlord all keys of stores, offices and toilet rooms either furnished to or otherwise procured by Tenant, and in the event of the loss of any keys so furnished Tenant shall pay to Landlord the cost thereof.

(9) Except with the approval of Landlord, no Tenant shall lay linoleum or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except by a paste, or other material, which may easily be removed with water, the use of cement or other similar adhesive materials being expressly prohibited. The method of affixing any such linoleum or other similar floor covering to the floor, as well as the method of affixing carpets or rugs to the Premises, shall be subject to approval by Landlord. The expense of repairing any damage resulting from a violation of this rule shall be borne by Tenant by whom, or by whose agents, clerks, employees, or visitors, the damage shall have been caused.

(10) Tenant will not install blinds, shades, awnings, or other form of inside or outside window covering, or window ventilators or similar devices without the prior written consent of Landlord.

Landlord reserves the right from time to time to reasonably amend or supplement the foregoing rules and regulations, and to adopt and promulgate additional rules and regulations applicable to the Premises, provided that any such change shall apply to all tenants in a nondiscriminatory manner and shall not materially affect Tenant's rights under this Lease. Notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to the Tenant and Tenant agrees to comply with all such rules and regulations upon receipt of notice to Tenant from Landlord. Landlord shall not be liable in any way to Tenant for any damage or inconvenience caused by any other tenant's non-compliance with these rules and regulations.

6.6 Condition Upon Termination. Upon the termination of the Lease, (whether by default or otherwise) Tenant shall surrender the Premises and all Tenant Improvements including Tenant Improvements paid for by Tenant to Landlord broomclean and in the same condition as received, except ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage which Landlord is required to repair under Article Eight (Damage or Destruction).

6.6.1 Tenant Equipment That Remains on the Premises. In no event shall Tenant remove any of the following materials or equipment without Landlord's prior written consent: any power wiring or power panels; lighting or lighting fixtures; wall coverings (not including artwork); drapes, blinds or other window coverings; carpets or other floor coverings; heaters, air conditioners or any other heating or air conditioning equipment and fume hoods; fencing or security gates; or other similar Building Systems, Building operating equipment; wall sconces, wood paneling and similar decorations. Notwithstanding the foregoing, upon termination of the Lease (at expiration of the Term or for any other reason), Tenant shall offer Landlord the right to purchase the following clean room equipment: autoclave, dry heat oven, generator and storage components of the WFI System, and pure steam generator. The price of said equipment will be the residual value at the time of the purchase based upon agreement or a mutually agreed upon appraisal method. Landlord and Tenant designate the firm of Laboratory Planning and Development as the appraiser to conduct the appraisal in the event that Landlord and Tenant are unable to agree with respect to the residual value of the equipment. If Laboratory Planning and Development is not in business at the time of the appraisal, then a mutually agreed upon appraiser shall be selected. If Landlord does not elect to purchase the equipment, Tenant shall remove the equipment Landlord elects not to purchase at Tenant's cost and restore the Premises as described in Section 6.6.2 below.

6.6.2 Removal of Tenant Equipment. All equipment which Tenant is permitted to remove pursuant to Section 6.6.1. above must be removed promptly after the termination of the Lease and Tenant shall repair, at Tenant's expense, any damage to the Building or the Premises caused by such removal.

VII
INSURANCE AND INDEMNITY

7.1 Insurance Premiums.

7.1.1 Liability Insurance. Tenant shall, at its sole expense, maintain during the term of this Lease comprehensive general or commercial liability insurance, including contractual liability insurance covering Tenant's indemnification of Landlord, and personal injury coverage, with limits of not less than $2,000,000 per occurrence combined single limit for bodily injury and property damage, and $2,000,000 annual aggregate for personal injury and contractual liability. Tenant's insurance shall be written under policies issued by insurers acceptable to Landlord, shall name Landlord, its agents, servants and employees as additional insureds, and shall contain a provision that said insurance shall not be canceled without thirty (30) days written notice to Landlord. Tenant shall, upon execution of this Lease, deliver to Landlord a certificate of insurance evidencing the insurance required to be carried by Tenant and shall provide to Landlord renewal certificates of insurance no less than ten (10) days prior to the expiration date of any policy. If Tenant fails to provide proper verification of insurance, and upon receipt of Landlord's written notice thereof, Tenant shall have ten (10) days to cure such default. Failure to cure shall be a material default under this Lease. Tenant may, at Tenant's expense, maintain such other insurance as Tenant deems necessary to protect Tenant.

7.1.2 Hazard Insurance. During the Lease Term, Landlord shall, at Tenant's pro rata expense as set forth below, maintain policies of insurance covering loss of or damage to the Building shell and the structural portions of the Building to the extent of at least one hundred percent (100%) of its replacement value. Tenant shall not do or permit to be done anything which invalidates any such insurance policies. Such policies shall generally be on an "all-risk" form and provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, and any other perils (except flood and earthquake, unless otherwise required by any of Landlord's lenders) which Landlord deems necessary. In addition, Tenant shall, at Tenant's expense, maintain an "all-risk" insurance policy in the amount of 100% of replacement value on its fixtures, equipment, personal property and building improvements (including the Tenant Improvements) and all alterations and additions to the Premises.

7.1.3 Payment of Premiums; Insurance Policies. Tenant shall pay its pro rata share of the premiums for maintaining the insurance required by Subsection 7.1.2. Tenant's pro

rata share of all such premiums shall be the same proportion as used for payment of Building Operating Costs as set forth in Subsection 1.9.3 hereof. All such amounts will be due and payable upon ten (10) days written notice.

7.1.4 Increase in Fire Insurance Premium. Tenant agrees that it will not keep, use, manufacture, assemble, sell or offer for sale in or upon the Premises any article which may be prohibited by the standard form of fire insurance policy. Tenant shall be solely responsible for and shall pay to Landlord upon demand any increase in insurance premiums that may be charged during the term of this Lease on the amount of such insurance which may be carried by Landlord on said Premises or the Building of which it is a part, resulting from the acts or omissions of the Tenant, its agents, servants or employees, or the use or occupancy of the Premises by the Tenant or from the type of materials or products stored, manufactured, assembled or sold by Tenant in the Premises, whether or not Landlord has consented to the same. In determining whether increased premiums are the result of Tenant's use of the Premises, a schedule, issued by the organization making the insurance rate on the Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the Premises.

7.1.5 Waiver of Subrogation. Landlord and Tenant each hereby waive any and all rights of recovery against each other and the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control, to the extent that such loss or damage is insured against under the insurance required to be carried by such waiving party under Subsection 7.1.2 of this Lease, or under any other policy or policies of property insurance carried by such waiving party. Each policy of insurance shall contain a provision waiving subrogation against the other party to this Lease.

7.2 Indemnification of Landlord. Tenant shall protect and indemnify Landlord and its partners, directors, officers, agents and employees (collectively, "Agents") and save them harmless from and against any and all claims, actions, loss, damages, liability, cost and expense (including, without limitation, court costs and attorneys' fees) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or about the Premises, or the occupancy or use by Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act of omission of Tenant, its agents, contractors, employees, servants, tenants or concessionaires. Tenant shall further indemnify, protect and hold Landlord and its Agents harmless from and against any and all claims arising from any breach or default in performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act, neglect, fault or

omission of Tenant by its agents, contractors, employees, servants, tenants or concessionaires, and from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with such claim or any action or proceeding brought thereon. In case any action or proceeding shall be brought against Landlord and/or any of its Agents by reason of any such claim, Tenant upon notice from Landlord or its Agents shall defend the same at Tenant's expense by counsel reasonably approved in writing by Landlord or its Agents, or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such action or proceeding. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause whatsoever except that which is caused by the failure of Landlord to observe any of the terms and conditions of this Lease. Tenant, to the full extent permitted by law, hereby waives all its claims in respect thereof against Landlord and its Agents, except any claims relating to the gross negligence or willful misconduct of Landlord or its agents or the existence of Hazardous Materials on the Premises on the Commencement Date. The provisions of this Section 7.2 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination and shall not be limited by reason of any insurance carried by Landlord, its Agents or Tenant.

7.3 Exemption of Landlord from Liability; Waiver. Landlord and its Agents shall not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person in or about the Premises, whether such damage or injury is caused by or results from: (a) fire, steam, electricity, water, gas or rain; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause; (c) conditions arising in or about the Premises or upon other portions of any building of which the Premises is a part, or from other sources or places; or (d) any act or omission of any other tenant of the Project except if caused by intentional misconduct or gross negligence on the part of Landlord or its Agents. Landlord and its Agents shall not be liable for any such damage or injury even though the cause of or the means of repairing such damage or injury are not accessible to Tenant except where caused by Landlord's intentional misconduct or gross negligence. If any injury or damage occurs to Landlord or its Agents' persons or property while on the Premises performing Landlord's duties under this Lease and such damage or injury to person or property is not due to Tenant's intentional misconduct or gross negligence, Tenant shall not be liable for any such damage or injury. Tenant, as a material part of the consideration to be rendered to Landlord to the full extent permitted by law, hereby waives all claims against Landlord and its Agents for the foregoing damages from any cause arising at any time.

7.4 Indemnification of Tenant. Landlord shall protect and indemnify Tenant and its partners, directors, officers, agents and employees (collectively, "Agents") and save them harmless from and against any and all claims, actions, losses, damages, liability cost and expense (including, without limitation, court costs and attorneys' fees) in connection with loss of life, personal injury and/or damage to property arising from or relating to Landlord's operation of the Common Areas. The foregoing indemnification shall not apply to any claims, actions, losses, damages, liabilities, costs or expenses caused by the negligence or willful misconduct of Tenant.

7.5 Commissions. The parties mutually warrant and covenant that other than to Iliff, Thorn and Company and Compass Management and Leasing, no brokerage commissions shall be due and payable on account of this transaction, and each party shall hold the other harmless from claims for such commissions arising from the actions of such party. Landlord shall be liable for the commission of Iliff, Thorn and Company and Compass Management and Leasing.

VIII
DAMAGE OR DESTRUCTION

8.1 Partial Damage to Premises. Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Premises or the Building. If the Premises or the Building are only partially damaged and if the proceeds received by Landlord from the insurance policies described in Subsection 7.1.2 are sufficient to pay for the necessary repairs, this Lease shall remain in effect and Landlord shall repair the damage as soon as reasonably possible provided, however, that if Landlord cannot repair the Premises within one hundred eighty (180) days after the damage occurs, then Tenant shall have the right to terminate this Lease as of the date the damage occurred by delivering notice to Landlord within ten (10) days of Landlord's notice of the amount of time it will take Landlord to repair the damage. If (i) Tenant fails to deliver its notice of election to terminate within such ten (10) day period or if (ii) the damage was caused in whole or in part by Tenant's negligence, then Tenant shall have waived its right to terminate this Lease. "Partially damaged" shall mean that the damage to the Premises or Building exceeds fifty percent (50%) of the replacement value of the Building or Premises. Landlord may elect to repair any damage to Tenant's fixtures, equipment, or improvements. If the insurance proceeds received by Landlord are not sufficient to pay the entire cost of repair, or if the cause of the damage is not covered by the insurance policies which Landlord maintains under Subsection 7.1.2, Landlord may elect either to (a) repair the damage as soon as reasonably possible, in which case this Lease

shall remain in full force and effect, or (b) terminate this Lease as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice of the occurrence of the damage, whether Landlord elects to repair the damage or terminate the Lease. If the damage was due to an act or omission of Tenant, Tenant shall pay Landlord the difference between the actual cost of repair and any insurance proceeds received by Landlord. If Landlord elects to terminate this Lease, Tenant may elect to continue this Lease in full force and effect, in which case Tenant shall repair any damage to the Premises and the Building. Tenant shall pay the cost of such repairs, except that, upon satisfactory completion of such repairs, Landlord shall deliver to Tenant any insurance proceeds received by Landlord for the damage repaired by Tenant. Tenant shall give Landlord written notice of such election within ten (10) days after receiving Landlord's termination notice. If the damage to the Premises occurs during the last year of the Lease Term, Landlord or Tenant may elect to terminate this Lease as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds and Landlord may retain all such proceeds. In such event, Landlord shall not be obligated to repair or restore the Premises and Tenant shall have no right to continue this Lease. Landlord shall notify Tenant of its election within thirty (30) days after receipt of notice of the occurrence of the damage. If Landlord does not elect to terminate the Lease due to damage or destruction occurring during the last year of the Lease Term, and if Landlord cannot repair such damage or destruction within one hundred twenty (120) days after the occurrence thereof, then Tenant shall have the right to terminate this Lease as of the date the damage occurred by delivering written notice thereof to Landlord within ten (10) days after delivery of Landlord's notice of election not to terminate the Lease. If Tenant fails to deliver notice of election to terminate within such ten (10) day period, Tenant shall have waived its right to terminate the Lease.

8.2 Total or Substantial Destruction. If the Premises are totally or substantially destroyed by any cause whatsoever, or if the Building is substantially destroyed (even though the Premises are not totally or substantially destroyed), this Lease shall, at the election of the Landlord, terminate as of the date the destruction occurred (the "Date of Destruction") regardless of whether Landlord receives any insurance proceeds.

8.2.1 Rebuilding the Premises. If, in Landlord's determination the Premises can be rebuilt within six (6) months after the Date of Destruction, Landlord may elect to rebuild the Premises at Landlord's own expense (with all insurance proceeds being made available to the Landlord to apply against such costs), in which case, this Lease shall remain in full force and effect. Landlord shall notify Tenant of such election within twenty (20) days after the Date of Destruction. If the Date of Destruction occurs during the last year of the Lease Term, Tenant has the right to terminate the Lease within twenty (20) days of

the Date of Destruction regardless of whether or not Landlord elects to rebuild the Premises. If the destruction was caused by an act or omission of Tenant, Tenant shall pay Landlord the difference between the actual cost of rebuilding and any insurance proceeds received by Landlord.

8.2.2 Availability of Rentable Area. If, at the Date of Destruction, other available rentable area exists within the Project that, in the reasonable opinion of Landlord, would be suitable and appropriate for Tenant's use, Landlord shall notify Tenant of such availability within ten (10) days of the Date of Destruction. Tenant shall deliver written acceptance to Landlord within five (5) days of such notification if Tenant elects to relocate to such rentable area. Tenant's relocation to such available rentable area shall be under the same terms and conditions of this Lease. If, in the reasonable opinion of Landlord, other suitable rentable area is not available upon the Date of Destruction, Landlord shall have no obligation to rent alternative space to Tenant.

8.3 Uninsured Casualty. In the event the Premises or the Building are fully or partially destroyed by any casualty not covered under the fire and extended coverage insurance carried by Landlord or Tenant, then Landlord may elect to terminate this Lease. In the event of such termination the rights and obligations of the parties hereunder shall cease. If the Landlord does not elect to so terminate, then the Landlord shall promptly commence repairing such damage at the Landlord's cost and expense.

8.4 Landlord's Obligations. Landlord shall not be required to repair any injury or damage by fire or other cause, or to make any restoration or replacement of any panelings, decorations, partitions, railings, floor coverings, office fixtures or any other improvements or property installed in the Premises. Tenant shall be required to restore or replace the same in the event of damage. Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration, nor shall Tenant have the right to terminate this Lease as the result of any statutory provision now or hereafter in effect pertaining to the damage and destruction of the Premises, except where due to Landlord's intentional misconduct or gross negligence.

8.5 Temporary Reduction of Rent. If the Premises are made untenantable in whole or in part by fire or by other casualty insured against by policies of insurance carried by the Landlord, any rent payable as Basic Monthly Rent or Additional Rent shall be reduced in proportion to the part of the Premises which is unusable by the Tenant, until repairs can be made or the Lease terminated as provided herein. Except for such reduction in Rent, Tenant shall not be entitled to any compensation, reduction, or reimbursement from Landlord, as a result of any damage, destruction, repair or restoration of or to the Premises.

8.6 Waiver. Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of damage or destruction of the Premises (including but not limited to California Civil Code Sections 1932(2) and 1933(4)). Tenant agrees that the provisions of this Article Eight shall govern the rights and obligations of Landlord and Tenant in the event of any damage or destruction of the Premises.

IX
EMINENT DOMAIN

9.1 Total Condemnation. If the whole of the Premises is acquired or condemned by eminent domain, inversely condemned or sold in lieu of condemnation, for any public or quasi-public use or purpose ("condemned"), then the Lease Term shall terminate as of the date of title vesting in such proceeding and the Rent shall be adjusted to the date of termination. Tenant shall immediately notify Landlord of any such occurrence.

9.2 Partial Condemnation. If any part of the Premises is condemned, and such partial condemnation renders the Premises unusable for the business of the Tenant, then the term of this Lease shall terminate as of the date of title vesting in such proceeding and Rent shall be adjusted to the date of termination. If such condemnation is not extensive enough to render the Premises unusable for the business of Tenant, then Landlord shall promptly restore the Premises to a condition comparable to its condition immediately prior to such condemnation less the portion thereof lost in such condemnation, using proceeds recovered by Landlord. In such event this Lease shall continue in full force and effect, except that after the date of such title vesting the Basic Monthly Rent shall be reduced as reasonably determined by Landlord. Tenant waives the provisions of Code of Civil Procedure Section 1265.130 allowing Tenant to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

9.3 Landlord's Award. If the Premises are wholly or partially condemned, then, subject to the provisions of Section 9.4 below, Landlord shall be entitled to the entire award paid for such condemnation, and Tenant waives any right or claim in any part thereof from the Landlord or the condemning authority.

9.4 Tenant's Award. Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant's own right on account of any and all costs or loss (including loss of business) to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment to a new location provided that Tenant's award shall in no event reduce the amount of the award paid to Landlord.

9.5 Temporary Condemnation. If the whole or any part of the Premises shall be condemned for any temporary public or quasi-public use or purpose, this Lease shall remain in effect and Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the term. If a temporary condemnation remains in force at the expiration or earlier termination of this Lease, Tenant shall pay to Landlord a sum equal to the reasonable cost of performing any obligations required of Tenant by this Lease with respect to the surrender of the Premises, including, without limitation, repairs and maintenance required, and upon such payment Tenant shall be excused from any such obligations.

9.6 Notice and Execution. Landlord shall within ten (10) days of service of process in connection with any condemnation or potential condemnation, give Tenant notice in writing thereof. Tenant shall immediately execute and deliver to the Landlord all instruments that may be required to effect the provisions of this Article.

X
ASSIGNMENT AND SUBLETTING

10.1 Landlord's Consent Required. Except for a transfer by Tenant to a wholly-owned subsidiary of Tenant ("Permitted Transfer"), no portion of the Premises, or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by assignment, mortgage, sublease, transfer, operation of law, or act of Tenant, without Landlord's prior written consent. Except for a Permitted Transfer, any attempted transfer without consent shall be void and shall constitute a non-curable breach of this Lease. If Tenant is a partnership, (i) any cumulative transfer of more than twenty percent (20%) of the partnership interests, or (ii) the admission of a new general partner, or (iii) the transfer of any interest of any general partner in the partnership shall require Landlord's consent. If Tenant is a corporation, any change in a controlling interest of the voting stock of the corporation shall require Landlord's consent if such change results in a material adverse change to Tenant's financial condition or prospective ability to perform under this Lease.

10.2 No Release of Tenant. No transfer permitted by this Article Ten, whether with or without Landlord's consent, shall release Tenant or change Tenant's primary liability to pay the rent and to perform all other obligations of Tenant under this Lease. Landlord's acceptance of rent from any other person is not a waiver of any provision of this Article Ten. Consent to one transfer is not a consent to any subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the

transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee, without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

10.3 Landlord's Election. Tenant's request for consent to any transfer described in Section 10.1 above shall be accompanied by a written statement setting forth the details of the proposed transfer, including the name, business and financial condition of the prospective transferee, financial details of the proposed transfer (e.g., the term of and rent and security deposit payable under any assignment or sublease), and any other information Landlord deems relevant. Landlord shall have the right (a) to withhold consent, if reasonable; or (b) to grant consent. Tenant acknowledges that Landlord is not required to grant consent to a transfer if the transferee does not have a financial strength at least equal to that of Tenant at the date of this Lease.

10.4 Transfer Rent Adjustment. In the event that Tenant shall make a transfer with respect to any portion of the Premises which transfer is approved by Landlord as described in this Article Ten, Tenant shall pay to Landlord (i) monthly, as Additional Rent, fifty percent (50%) of the profit payable by such transferee to Tenant pursuant to the terms of the assignment or sublease, and (ii) fifty percent (50%) of the dollar amount of the funds or property other than basic annual or monthly rent or any additional rent which is transferred from such transferee to Tenant as initial consideration for the transfer. As used herein, "profit" shall mean the difference between all rent and other amounts paid or payable by the transferee to Tenant pursuant to the terms of the assignment or sublease (deducting reasonable subleasing costs including but not limited to the cost of improving any subleased space paid by Tenant, and commissions paid to third parties) and the Basic Monthly Rent and Additional Rent payable by Tenant to Landlord under the Lease for the portion of the Premises subject to the transfer. The dollar amount due pursuant to (ii) above shall be due and payable by Tenant to Landlord at the same time that the first installment of Basic Monthly Rent after the transfer occurs is due.

10.5 No Merger. No merger shall result from Tenant's sublease of the Premises under this Article Ten, Tenant's surrender of this Lease or the termination of this Lease in any other manner. In any such event, Landlord may terminate any or all subtenancies or succeed to the interest of Tenant as sublandlord thereunder.

10.6 Involuntary Transfers. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. §101 et seq. (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be the exclusive property of

Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or delivered to Landlord under the preceding sentence shall be held in trust for the benefit of Landlord and be promptly paid or delivered to Landlord. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption.

XI
DEFAULTS; REMEDIES

11.1 Covenants and Conditions. Time is of the essence in the performance of all covenants and conditions by both Landlord and Tenant.

11.2 Default by Tenant. Tenant shall be in material default under this Lease:

11.2.1 Vacation or Abandonment. If Tenant abandons or vacates the Premises or if such abandonment or vacating of the Premises results in the cancellation of any insurance described in Article Seven; or

11.2.2 Failure to Pay. If Tenant fails to pay rent or any other charge required to be paid by Tenant, as and when due, and Tenant has received written notice from Landlord as to such failure to pay and does not cure such default within three (3) days. Such notice shall satisfy, and not be in addition to, the notice requirement in Section 791 of the California Civil Code; or

11.2.3 Failure to Perform. If Tenant fails to perform any of Tenant's non-monetary obligations under this Lease for a period of fifteen (15) days after written notice from Landlord; provided that if more time is required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the fifteen (15) day period and thereafter diligently pursues its completion. However, Landlord shall not be required to give such notice if Tenant's failure to perform constitutes a non-curable breach of this Lease. The notice required by this Subsection is intended to satisfy any and all notice requirements imposed by law on Landlord and is not in addition to any such requirement.

11.2.4 Other Defaults. (i) If Tenant makes a general assignment or general arrangement for the benefit of creditors; (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Tenant and

is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within thirty (30) days; or (iv) if substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days. If a court of competent jurisdiction determines that any of the acts described in this Subsection 11.2.4 is not a default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the difference between the rent (or any other consideration) paid in connection with such assignment or sublease and the rent payable by Tenant hereunder.

11.2.5 Cross-Default. If Tenant is in default of the Building 5 Lease (as defined in Section 2.5 above).

11.2.6 Failure to Pay Tenant Improvement Costs. If Tenant fails to pay Tenant's share of Tenant Improvement Costs within the time period set forth in the Tenant Improvements Rider.

11.3 Default by Landlord. Landlord shall be in material default under this Lease if Landlord fails to perform any of Landlord's material non-monetary obligations under this Lease for a period of fifteen (15) days after written notice from Tenant; provided that if more time is required to complete such performance, Landlord shall not be in default if Landlord commences such performance within the fifteen (15) day period and thereafter diligently pursues its completion. However, Tenant shall not be required to give such notice if Landlord's failure to perform constitutes a non-curable breach of this Lease. The notice required by this Subsection is intended to satisfy any and all notice requirements imposed by law on Tenant and is not in addition to any such requirement.

11.4 Remedies. On the occurrence of any material default by Tenant, Landlord may, at any time thereafter with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

11.4.1 Termination of Possession. Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall have the immediate right to re-enter and remove all persons and property and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned

thereby; and Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (i) the worth at the time of the award of all Basic Monthly Rent, Additional Rent and other charges which were earned or were payable at the time of the termination; (ii) the worth at the time of the award of the amount by which the unpaid Basic Monthly Rent, Additional Rent and other charges which would have been earned or were payable after termination until the time of the award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Basic Monthly Rent, Additional Rent and other charges which would have been payable for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Premises after such default, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation or alteration of the Premises, Landlord's reasonable attorneys' fees incurred in connection therewith, and any real estate commissions or other such fees paid or payable. As used in subparts (i) and (ii) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%) per annum, or such lesser amount as may then be the maximum lawful rate. As used in subpart (iii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%). If Tenant shall have abandoned the Premises, Landlord shall have the option of (i) retaking possession of the Premises and recovering from Tenant the amount specified in this Subsection 11.4.1, or (ii) proceeding under Subsection 11.4.2.

11.4.2 Maintenance of Possession. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

11.4.3 Letter of Credit. Without curing any default, make a draw upon the Letter of Credit.

11.4.4 Other Remedies. Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Premises is located.

11.5 The Right to Relet the Premises. Should Landlord elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any

notice provided for by law, it may either terminate this Lease or it may from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the property, and relet said property or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; upon each such reletting all rentals received by the Landlord from such reletting shall be applied, first, to the repayment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys' fees and of costs of such alterations and repairs; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of said property by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction.

11.6 Waiver of Rights of Redemption. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants or conditions of this Lease, or otherwise.

11.7 Cumulative Remedies. Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

11.8 No Waiver. No failure by Landlord to insist upon the strict performance of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. Efforts by Landlord to mitigate the damages caused by Tenant's breach of this Lease shall not be construed to be a waiver of Landlord's right to recover damages under this Section 11.8. Nothing in this Section 11.8 affects the right of Landlord to indemnification by Tenant in accordance with Section 7.2 for liability arising prior to the termination of this Lease for personal injuries or property damage.

XII
ESTOPPEL CERTIFICATE, ATTORNMENT AND SUBORDINATION

12.1 Subordination.

12.1.1 Landlord's Election. Landlord shall have the right to require Tenant to subordinate this Lease to any other ground lease, deed of trust or mortgage encumbering the Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded if the ground lessee, deed of trust beneficiary or mortgagee agrees that Tenant's right to quiet possession of the Premises during the Lease Term shall not be disturbed if Tenant pays the rent and performs all of Tenant's obligations under this Lease and is not otherwise in default. If any ground lessor, beneficiary or mortgagee elects to have this Lease prior to the lien of its ground sublease, deed of trust or mortgage and gives written notice thereof to Tenant, this Lease shall be deemed prior to such ground sublease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said ground sublease, deed of trust or mortgage or the date of recording thereof.

12.1.2 Execution of Documents. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any ground sublease, mortgage or deed of trust, as the case may be, and failing to do so within ten (10) business days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so.

12.2 Attornment. If Landlord's interest in the Premises is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Premises and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Premises upon the transfer of Landlord's interest.

12.3 Signing of Documents. Tenant shall sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination or Lease to do so. If Tenant fails to do so within ten (10) business days after written request, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

12.4 Estoppel Certificates.

12.4.1 Landlord's Request. Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying if true (or if not, stating why): (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) the last date of payment of the Basic Monthly Rent and other charges and the time period covered by such payment; (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why); and (v) such other reasonable statements as may be required by Landlord or any prospective purchasers or encumbrancers including, if required, a specific description of the use being made of the Premises. Tenant shall deliver such statement to Landlord within ten (10) business days after Landlord's request. Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrancer of the Premises. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

12.4.2 Failure to Deliver. If Tenant does not deliver such statement to Landlord within such ten (10) business day period, Landlord, and any prospective purchaser or encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's Basic Monthly Rent or other charges have been paid in advance; and (iv) that Landlord is not in default under the Lease. In such event, Tenant shall be estopped from denying the truth of such facts.

12.5 Tenant's Financial Condition. Within ten (10) business days after written request from Landlord, Tenant shall deliver to Landlord such financial statements as are reasonably required by Landlord to verify the net worth of Tenant, or any assignee, subtenant, or guarantor of Tenant. In addition, Tenant shall deliver to any lender or proposed purchaser of the Premises designated by Landlord any financial statements required by such lender to facilitate the sale, financing or refinancing of the Premises. Tenant represents and warrants to Landlord that each such financial statement is a true and accurate statement as of the date of such statement. All financial statements shall be confidential and shall be used only for the purposes set forth herein.

XIII
LIABILITY

13.1 Landlord's Liability.

13.1.1 Landlord. As used in this Lease, the term "Landlord" means only the current owner or owners of the Project at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the date of transfer. However, each Landlord shall deliver to its transferee all funds previously paid by Tenant if such funds have not yet been applied under the terms of this Lease.

13.1.2 Written Notice. Tenant shall give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Premises whose name and address have been furnished to Tenant in writing. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure such non-performance within fifteen (15) days after receipt of Tenant's notice. However, if such non-performance reasonably requires more than fifteen (15) days to cure, Landlord shall not be in default if such cure is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

13.1.3 Liability. Tenant, as a material part of the consideration to be rendered to Landlord, hereby covenants and agrees that, if any actual or alleged failure, breach or default by Landlord occurs: (i) the sole and exclusive remedy of Tenant shall be against Landlord's interest in the Project; (ii) no Agent of Landlord shall be sued or named as a party in any action or suit (except as may be necessary to secure jurisdiction of Landlord); (iii) no service of process shall be made against any Agent of Landlord (except as may be necessary to secure jurisdiction of Landlord); (iv) no judgment shall be taken against any Agent of Landlord; (v) no writ of execution shall be levied against the assets of any Agent of Landlord; (vi) the obligations of Landlord under this Lease do not constitute personal obligations of the Agents of Landlord or any party executing this Lease on behalf of Landlord, and Tenant shall not seek recourse against the Agents or signatories of Landlord or any of their personal assets for satisfaction of any liability with respect to this Lease; and (vii) the covenants and Leases contained in this Paragraph are enforceable by both Landlord, each of its Agents and each signatory. Officers and/or directors of Tenant shall not be subject to personal liability for any acts undertaken on behalf of Tenant unless such acts are ultra vires.

13.2 Tenant's Liability. Notwithstanding anything to the contrary contained herein, the officers and/or directors of Tenant shall not be personally liable for Tenant's obligations under this Lease and shall not be sued or named as a party in any suit or action related to Tenant's obligations under this Lease (except as may be necessary to secure jurisdiction of Tenant).

XIV
LEGAL COSTS

14.1 Legal Proceedings.

14.1.1 Costs. Tenant shall reimburse Landlord, upon demand, for any costs or expenses incurred by Landlord in connection with any breach or default of Tenant under this Lease, whether or not suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorneys' fees and costs. Such attorneys' fees and costs shall be paid by the losing party in such action.

14.1.2 Indemnification. Tenant shall also indemnify Landlord against and hold Landlord harmless from all costs, expenses, demands and liability incurred by Landlord if Landlord becomes or is made a party to any claim or action (a) instituted by Tenant, or by any third party against Tenant (except if the claim against Tenant arises solely out of acts of Landlord), or by or against any person holding any interest under or using the Premises by license of or lease with Tenant; (b) for foreclosure of any lien for labor or material furnished to or for Tenant or such other person; (c) otherwise arising out of or resulting from any act or transaction of Tenant or such other person; or (d) necessary to protect Landlord's interest under this Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the United States Code, as amended. Tenant shall defend Landlord against any such claim or action at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such claim or action. Notwithstanding anything to the contrary contained in this Section 14.1.2, the foregoing indemnity shall not apply to any cost, expenses, demands or liabilities incurred by Landlord in connection with an action or proceeding between Landlord and Tenant in which Tenant is the prevailing party.

14.2 Landlord's Consent. Tenant shall pay Landlord's reasonable attorneys' fees incurred in connection with Tenant's request for Landlord's consent under Article Ten (Assignment and Subletting), or in connection with any other act which Tenant proposes to do and which requires Landlord's consent.

XV
MISCELLANEOUS PROVISIONS

15.1 Severability. A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

15.2 Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises with Tenant's expressed or implied permission.

15.3 Incorporation of Prior Leases; Modifications. This Lease is the only Lease between the parties pertaining to the lease of the Premises and no other Leases are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

15.4 Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered to the address specified in Section 1.3 above, except that upon Tenant's taking possession of the Premises, the Premises shall be Tenant's address for notice purposes. Notices to Landlord shall be delivered to the address specified in Section 1.2 above. All notices shall be effective upon personal delivery or two (2) days after deposit in the U.S. Mail, certified. Either party may change its notice address upon written notice to the other party.

15.5 Waivers. All waivers must be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of such statement.

15.6 No Recordation. Tenant shall not record this Lease without prior written consent from Landlord. However, Landlord may require that a "Short Form" memorandum of this Lease be executed by both parties and recorded.

15.7 Binding Effect; Choice of Law. This Lease binds any party who legally acquires any rights or interest in this Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the state in which the Premises are located shall govern this Lease.

15.8 Corporate Authority; Partnership Authority . If Tenant is a corporation, each person signing this Lease on behalf of Tenant represents and warrants that he has full authority to do so and that this Lease binds the corporation. Upon execution of this Lease, Tenant shall deliver to Landlord a certified copy of a resolution of Tenant's Board of Directors authorizing the execution of this Lease or other evidence of such authority reasonably acceptable to Landlord. If Tenant is a partnership, each person signing this Lease for Tenant represents and warrants that he is a general partner of the partnership, that he has full authority to sign for the partnership and that this Lease binds the partnership and all general partners of the partnership. Tenant shall give written notice to Landlord of any general partner's withdrawal or addition. Within five (5) days after this Lease is signed, Tenant shall deliver to Landlord a copy of Tenant's recorded statement of partnership or certificate of limited partnership.

15.9 Force Majeure. If Landlord cannot perform any of its respective obligations due to events beyond Landlord's control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. If Tenant cannot perform any of its non-monetary obligations due to events beyond Tenant's control, the time provided for performing such obligations shall be extended for a period of time equal to the duration of such events, provided that Tenant gives notice of the occurrence of such event within ten (10) days of the date upon which Tenant has or reasonably should have had notice of such event. Events beyond a party's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

15.10 No Option. The submission of this Lease for examination does not constitute a reservation of or option to lease the Premises and this Lease becomes effective only upon execution and delivery thereof by Landlord and Tenant.

15.11 Standards of Measurement. Any reference in this Lease to "usable square feet" shall mean and refer to the standards for measurement promulgated by the Building Office Management Association ("BOMA").

15.12 Time of the Essence. Time is of the essence in each and every term and provision in this Lease.

LANDLORD:

EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation

By: /s/ Constantino Argimon
Its: Constantino Argimon
Investment Officer

Signed on _____, 1993
at _____.

TENANT:

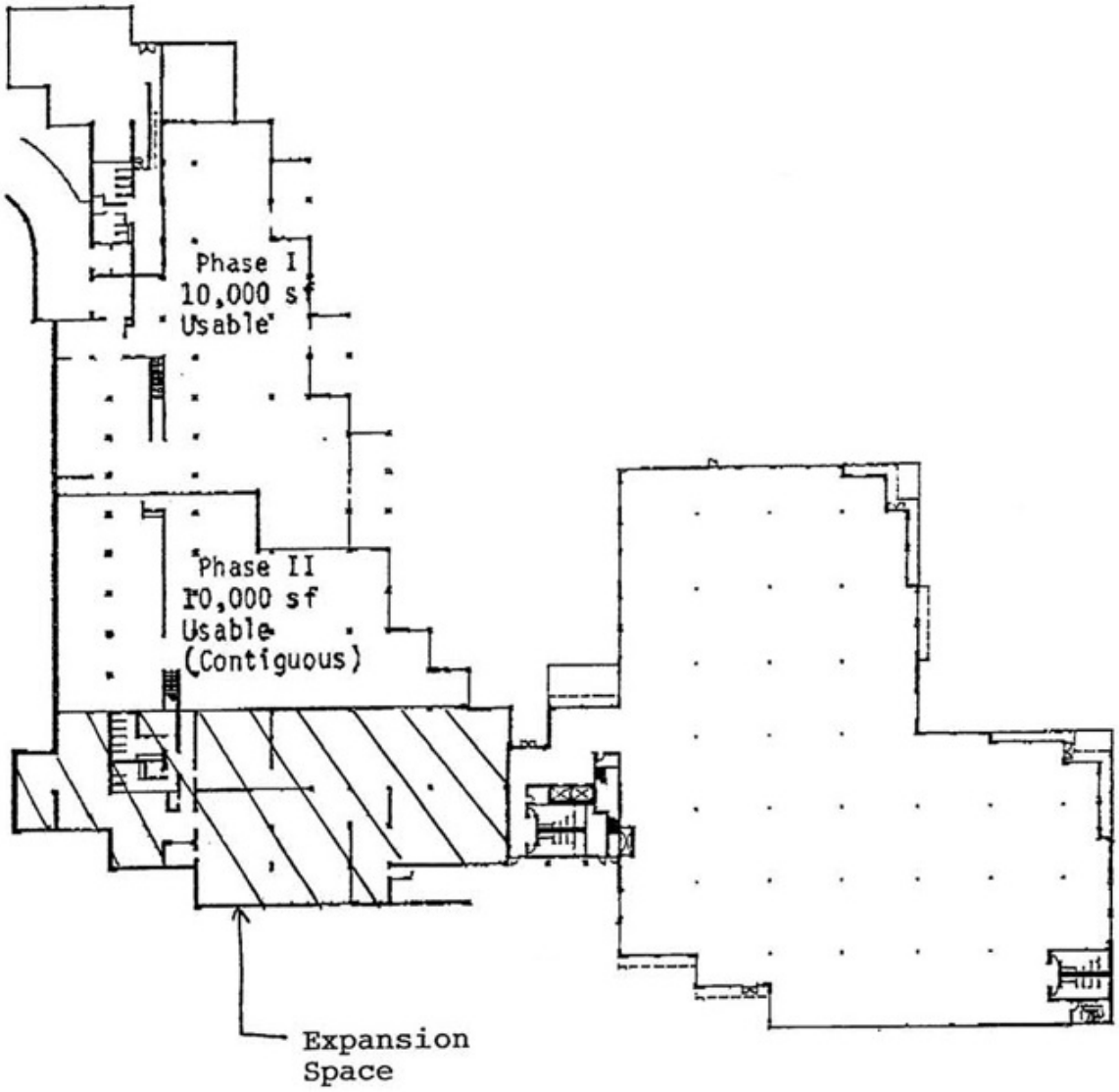
DEPOTECH CORPORATION, a California corporation

By: /s/ Edward L. E[illegible]
Its: President & CEO

By: _____
Its: _____

Signed on 8/17 , 1993
at La Jolla, CA

BUILDING 6: First Floor



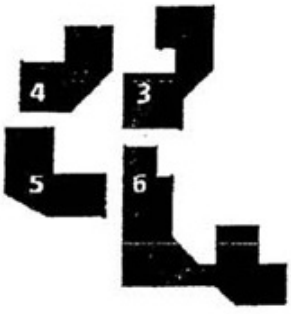


EXHIBIT "A"

N

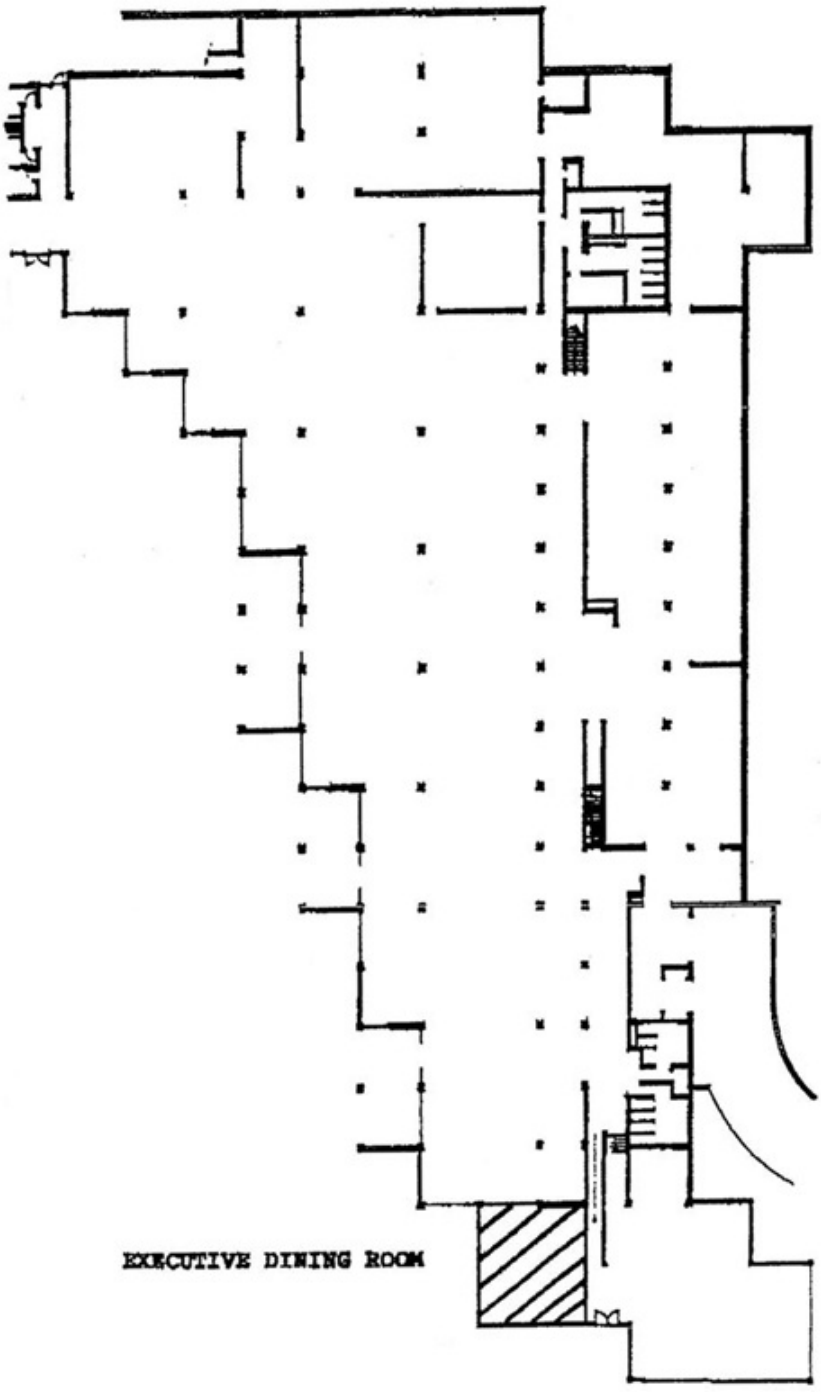


EXHIBIT A-1

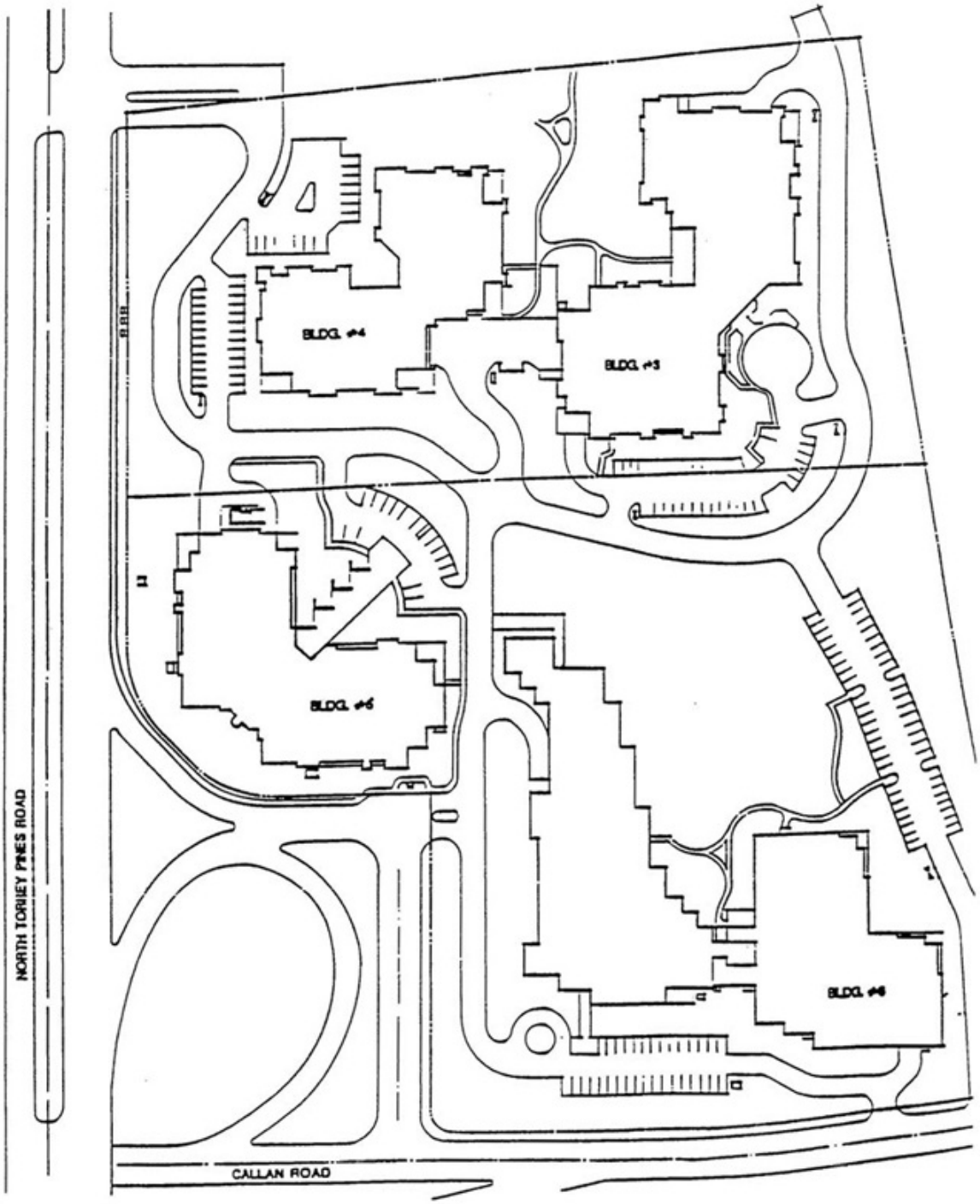

NORTH TORREY PINES ROAD
BLDG. #4
BLDG. #3
BLDG. #5
BLDG. #6
CALLAN ROAD

EXHIBIT "B"

EXHIBIT "C"

TENANT IMPROVEMENTS RIDER

Simultaneously with the execution of this Tenant Improvements Rider ("Agreement"), the parties hereto, EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation, as "Landlord," and DEPOTECH CORPORATION, a California corporation as "Tenant," are entering into that certain Torrey Pines Science Park Industrial Real Estate Triple Net Lease (hereinafter called the "Lease") to which this Tenant Improvements Rider is attached. The purpose of this Agreement is to delineate the responsibilities of Landlord and Tenant with respect to the design and construction of the Premises and the Tenant Improvements (as defined herein). Landlord and Tenant intend by this Agreement that Tenant shall be permitted freedom in the interior design and layout of the Premises, consistent with all applicable laws, ordinances and regulations, and consistent with the design, construction and equipment of the Building and with sound architecture and construction practice in comparable buildings. This Agreement is a part of the Lease, and shall be subject to all of its terms and conditions, including all definitions contained therein.

1. Premises "As Is"

Tenant acknowledges that it has inspected the Premises and it will be taking the Premises in its "as is" condition as it exists on the date of execution of the Lease.

2. Landlord's Work.

Landlord will provide, at its expense, and not as part of the Tenant Improvement Allowance set forth below, (i) 2,000 amp, 480 volt, 3 phase electrical power stubbed to the Building core area to be determined by Landlord and (ii) relocation of the existing electrical panels outside of Tenant's Premises.

3. Tenant Improvements; Demolition.

All work to be performed pursuant to the Final Plans described in Section 4.2 below shall be referred to as the "Tenant Improvements." The Tenant Improvements shall be completed by Tenant at Tenant's sole cost and expense, subject to Landlord's obligation to pay the Tenant Improvements Allowance described in Section 5 in accordance with the terms and conditions of this Agreement and the Final Plans. Tenant shall restore the Premises to condition ready to receive the Tenant Improvements, and the expense of such work ("Demolition Cost") shall be included in the Tenant Improvements Allowance. Landlord and Tenant acknowledge that Landlord commenced demolition work in a portion of the Premises prior to the date of this Lease. The cost of the demolition work performed by Landlord, not to exceed $2,500.00 will be included in the Demolition Cost. The Tenant Improvements in the Premises shall include the improvements shown on the Final Plans.

4. Tenant's Plans.

4.1 Preliminary Plans. Tenant shall contract with an architect reasonably approved by Landlord (the "Architect") for preparation of the space planning, architectural and engineering drawings, and plans and specifications for the Tenant Improvements. Tenant shall cause the Architect to develop general space plans showing Tenant's proposed layout for the Premises, including the location of structural floor penetrations, the location and extent of floor loading in excess of Building capacity, and air conditioning requirements, ("Preliminary Plans"). Tenant shall deliver the Preliminary Plans, designated as "Preliminary Plans" and initialed by Tenant, to Landlord for Landlord's approval. Within three (3) business days after delivery of the Preliminary Plans, Landlord shall deliver notice of approval or reasonable disapproval of the Preliminary Plans. If Landlord disapproves of such Preliminary Plans, Landlord shall specify the reasons for its disapproval and the parties shall meet within two (2) business days of delivery of notice of Landlord's disapproval to reach agreement on the Preliminary Plans.

4.2 Final Plans. Tenant shall submit to Landlord for its review and approval complete detailed working drawings and specifications for the Tenant Improvements prepared or caused to be prepared by the Architect including partitions, doors, electrical and telephone outlets, light fixture locations, wall finishes, cabinet and other carpentry work, floor and ceiling coverings and any other requirements of Tenant with respect to the improvement of the Premises ("Final Plans"). The Final Plans shall be designated as "Final Plans" and initialed by Tenant. The Preliminary Plans and Final Plans are sometimes collectively referred to herein as "Tenant's Plans." Landlord acknowledges that Tenant shall phase the construction of the Tenant Improvements (in two phases only, one for the Phase I Premises and one for the Phase II Premises) and that Tenant shall submit Final Plans for each phase. Landlord shall approve or reasonably disapprove the Final Plans within five (5) business days following submission by Tenant.

4.3 General Contractor. Tenant will enter into a contract with Rudolph and Sletten (the "Contractor") as the general contractor for the construction of the Tenant Improvements. Tenant shall promptly provide Landlord with a copy of the construction contract upon its execution.

5. Tenant Improvements Allowance.

5.1 Tenant Improvements Costs and Allowance. Landlord and Tenant reasonably anticipate that the total costs for the Tenant Improvements and Demolition Cost will not exceed $105.00 per square foot of Usable Area. Landlord shall provide Tenant up to Seventy Dollars ($70.00) per square foot of Usable Area within each

of Phase I and Phase II of the Premises ("Tenant Improvements Allowance") for Tenant Improvements including, but not limited to, fees payable to the Contractor and all costs and expenses incurred by Tenant in planning, preparing, constructing and installing Tenant Improvements, including permits, fees and utility meters, and fees and costs paid to the Architect (collectively "Tenant Improvements Costs"). Tenant shall pay any excess Tenant Improvements Costs over the Tenant Improvements Allowance. The parties will share the costs of the Tenant Improvements and pay the costs as described in Paragraphs 5.2 and 5.3 below.

5.2 Payment of Tenant Improvement Costs.

5.2.1 Invoices and Lien Releases. Each month Tenant shall deliver invoices which Tenant has approved for payment to Landlord, including signed lien releases. Landlord shall make payments for the Tenant Improvements Costs on a monthly basis based upon the invoices and supporting documentation presented to Landlord, including signed lien releases for the demolition and Tenant Improvements installed. Landlord shall hold back a ten percent (10%) retention until all of the work which is the subject of the construction contract is complete and the punch list items are complete to Landlord's and Tenant's reasonable satisfaction.

5.2.2 Tenant Payments. Tenant shall pay to Landlord monthly fifty percent (50%) of the total amount of Tenant Improvements Costs invoices approved by Tenant for payment for such month until such time as Tenant has paid a total of Thirty-Five Dollars ($35.00) per square foot. Tenant shall have no further obligation to make payments for Tenant Improvements Costs unless and until the total amount of Tenant Improvements Costs invoices approved by Landlord for payment exceed One Hundred Five Dollars ($105.00) per square foot. In such event, Tenant shall pay Landlord monthly one hundred percent (100%) of the total amount of Tenant Improvements Costs invoices approved by Tenant for payment for such month after the total Tenant Improvements Costs exceed One Hundred Five Dollars ($105.00) per square foot. Each month, Landlord shall deliver to Tenant a copy of Landlord's check evidencing payment to the Contractor, together with a statement from Landlord setting forth the amount of such invoices which is due from Tenant. Landlord may deliver such documents to Tenant by telecopy. Tenant shall pay to Landlord the amount shown on Landlord's statement not later than the tenth (10th) business day following Tenant's receipt of the statement. Statements sent by telecopy shall be deemed to be received on the date upon which such statements are sent to Tenant.

5.2.3 Default in Tenant Payments. Tenant's failure to pay to Landlord the amounts shown on Landlord's statements within ten (10) business days following the Tenant's receipt of such statements shall be a material default under the Lease. (For purposes of calculation of the 10 business days, a check sent by mail which is postmarked within 10 business days following Tenant's receipt of the statement shall be deemed to be timely). Upon such

default, and without further notice to Tenant, Landlord shall have the right, but not the obligation, to pursue any or all of the following remedies: (i) to discontinue making any further disbursements for Tenant Improvements and to order the Contractor to stop construction upon the Premises, (ii) to draw upon the Letter of Credit, (iii) to impose a late charge equal to ten percent (10%) of the statement amount and charge interest on the invoice amount at the rate set forth in Section 4.6 of the Lease, or (iv) to pursue any of Landlord's remedies set forth in the Lease. In the event that Landlord orders the Contractor to stop construction on the Premises, Tenant shall be responsible to the Contractor for the payment of termination damages and other amounts required to be paid to the Contractor as the result of stoppage of construction (which amount shall not be included in the Tenant Improvements Allowance) in addition to other damages payable by Tenant to Landlord as the result of Tenant's breach.

5.2.4 Reconciliation to Actual Costs. When the Tenant Improvements are installed and the Punch List Items are complete, Landlord will determine the final Tenant Improvements Costs. If the final Tenant Improvements Costs are less than One Hundred Five Dollars per square foot of Usable Area within the Premises, then Landlord shall repay to Tenant the amount which exceeds 33 1/3% of the final Tenant Improvements Costs within thirty (30) days after Landlord's determination of the final Tenant Improvements Costs. This process of reconciliation shall be followed separately for each phase of construction.

6. Changes or Additions to Tenant's Final Plans.

Tenant shall notify Landlord of any changes in writing required by any governmental department and any material changes and variations in construction of the Tenant Improvements and/or the Premises and Landlord shall have the opportunity to review such changes. Landlord and Tenant will meet on at least a weekly basis to discuss the progress and planning of the Tenant Improvements. Tenant shall inform Landlord of any changes to the construction plans it requests. If any changes are required by Tenant, or by any governmental body or other entity requiring approval of the Tenant Plans or construction, the cost of such change or changes shall be estimated and paid pursuant to Paragraphs 5.2 and 5.3 above. Any expenses arising from a change in configuration or substitution of materials required by a governmental agency because the Tenant Plans fail to conform to applicable governmental codes, shall be at Tenant's expense. If any changes are required either during construction or after construction is completed in order to meet code requirements or because the necessary permits required by any governmental body, or any other entity were not secured, Tenant shall, at its sole cost and expense, make such changes upon notice from the appropriate authority.

Whenever possible, disputed issues shall be resolved by prompt communication on both sides with the persons directly responsible for resolving disputes.

No materials may be substituted by Tenant in the Premises without express written approval of Landlord. Landlord's employees shall have the right to participate in all meetings involved in the construction of the Premises.

7. Construction.

7.1 Following execution of the construction contract with the Contractor, Tenant shall cause the Contractor to file with the appropriate departments of all governmental authorities with jurisdiction over the Building the Final Plans and such other information and materials as may be required by such governmental authorities for their approval of the Tenant Improvements. Upon receipt of all necessary governmental approvals for the construction of the Tenant Improvements, Tenant shall cause the Contractor to commence and diligently proceed with the construction of the Tenant Improvements in accordance with the Final Plans.

7.2 As used in the Lease and this Agreement, the terms "Substantial Completion" or "Substantially Complete" (or any other variant of such terms) with respect to the Tenant Improvements shall mean that (i) Tenant has procured a temporary or final certificate of occupancy for such work, and (ii) such work has been performed substantially in accordance with the provisions of any agreement, including this Agreement, entered into by Landlord and Tenant with respect to such work, except for finishing details of construction, decoration, mechanical and other adjustments and other items of the type commonly found on an architectural punch-list, none of which materially interfere with Tenant's use or occupancy of the Premises for normal business operations. Evidence of Substantial Completion of such work shall be the delivery to Landlord and Tenant of counterpart copies of a certificate to that effect signed by the Contractor.

7.3 If at any time prior to the issuance of a certificate of occupancy or similar entitlement for use of the Premises, Landlord shall determine that the Premises are not being constructed substantially in accordance with the Final Plans, notice in writing shall be given to Tenant specifying in detail the particular deficiency, omission, or other manner in which construction has not been substantially completed in accordance with the Final Plans. Upon receipt of any such notice, Tenant shall take steps forthwith necessary to correct any deficiencies, omissions or defects.

Landlord shall have a "walk-through" with Tenant upon completion of the Tenant Improvements in the Premises in order to ascertain if such Tenant Improvements comply with the Final Plans and this Agreement. In the event Landlord determines that the Tenant Improvements do not comply with the Final Plans, then a "punch-list" will be prepared by Landlord indicating such deviations and Tenant shall correct those items not in compliance with the Final Plans. In the event Tenant and Landlord cannot

agree upon whether or not the items in the punch-list reflect a noncompliance with the Final Plans, then the compliance or noncompliance of the Final Plans shall be determined by a neutral arbitrator who shall be an architect in accordance with the commercial rules of the American Arbitration Association.

Tenant will complete ("Final Completion" or "Finally Complete") the finishing details of construction and the punch-list items for the Tenant Improvements and Approved Fixtures according to the Final Plans within thirty (30) days after Substantial Completion.

8. No Liability of Landlord.

Tenant agrees that Landlord shall not be liable to Tenant or any third party for any claim, demand, cause of action, damage, liability or defect (collectively, "Claim") in any way connected with the Tenant Improvements or Landlord's approvals of the Tenant Plans as described in this Tenant Improvement Rider. Tenant shall be solely responsible for any Claim(s) arising out of the design, construction, operation or maintenance of the Tenant Improvements. Tenant shall defend, indemnify and hold Landlord harmless from any Claims in any way arising out of or relating to the design, manufacture, construction, approval, installation, operation, or maintenance of the Tenant Improvements.

9. Interior Decoration.

Any interior decorating services required by Tenant shall be at Tenant's sole cost and expense.

This Agreement shall be effective as of the Date of Lease set forth at Section 1.1 of the Lease.

LANDLORD:

EQUITABLE LIFE ASSURANCE SOCIETY,
OF THE UNITED STATES, a New York corporation

By: /s/ Constantino Argimon
Its: Constantino Argimon
Investment Officer

TENANT:

DEPOTECH CORPORATION, a California corporation

By: /s/ Edward L. E[illegible]
Its: President & CEO

By: _____
Its: _____

EXHIBIT "D"

USABLE SQUARE FOOTAGE MEASUREMENTS

Usable Area of space within the Phase I Premises is _____square feet.

Initials of parties indicating approval of square footage

Date:_____

Usable Area of space within the Phase II Premises is _____square feet.

Initials of parties indicating approval of square footage

Date:_____

EXHIBIT E

ROOF ACCESS RIDER

This Roof Access Rider is entered into between Equitable Life Assurance Society of the United States, a New York corporation, as Landlord and Depotech Corporation, a California corporation as Tenant, and is **Exhibit "E"** to that certain Torrey Pines Science Park Industrial Real Estate Lease between Landlord and Tenant dated August 6, 1993 (hereinafter called the "Lease").

Tenant has requested access to the roof of building number 6, located at 11011 North Torrey Pines Road, and/or another building in the Project which will be agreed upon by Landlord and Tenant, in order to monitor the air handling and exhaust equipment and other special items on the roof servicing its Premises. Although tenants at Torrey Pines Science Park are not given roof access per a management policy, Landlord shall hereby grant said Tenant keys and access to the roof under the following terms and conditions:

1. Tenant's access to the roof is not exclusive, and Landlord shall also have full access to the roof at all times.

2. In establishing the benefit of being allowed access to the roof, Tenant and Tenant's successors (including assignees and subtenants) hereby agree to fully indemnify, hold harmless and defend, in any proceedings, Landlord and Landlord's agents, personnel, officers, assigns, affiliates, subsidiaries, directors and all others from any and all actions, lawsuits, causes of action, or claims of any nature brought by any person or entity which in any way results from, arises out of, or relates to injuries or damages to persons or property, including interference with other equipment, as a result of Tenant installing equipment and/or being given access to the roof on building number 6 or any other building unless such damage or injury is due to the sole negligence or willful misconduct of Landlord. Furthermore, Tenant agrees to be responsible for any and all damages to the roof and roofing system, equipment, any other tenant's property or equipment and other items that may be on the roof that become damaged as a result of Tenant's access to the building roof. This provision is to be interpreted in its broadest sense and the above specific terms are by example, and not intended to limit this agreement to only the specific references.

3. The above indemnification and hold harmless agreement is in addition to, and not in lieu of, the indemnification and waiver of claims sections contained in the Lease. Furthermore, Tenant agrees that its insurance obligations, as specified in the Lease, shall also be applicable to any and all activities related to or resulting from access to the roof. Those paragraphs are hereby incorporated by reference into this agreement.

4. Tenant agrees not to interfere with or cause interference with any other tenants' equipment, communications or otherwise. It should be Tenant's sole responsibility to monitor and correct any interference caused by Tenant's equipment with any other equipment on the Project.

5. The granting of access to the roof by Landlord to the Tenant shall not allow the Tenant to engage in any additional activities on the roof other than as specifically stated in the Lease, and all the other terms and provisions of the Lease limiting Tenant's activities on the roof and Landlord's rights to control the roof shall be applicable.

TENANT:

DEPOTECH CORPORATION,
a California corporation

Accepted and approved by:

Name: /s/ Edward L. E[illegible]
Title: President & CEO
Date: 8/17/93

LANDLORD:

EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation

Accepted and approved by:

Name: /s/ Constantino Argimon
Title: Constantino Argimon
Investment Officer
Date:

EXHIBIT "F"

FORM OF LETTER OF CREDIT

EQUITABLE LIFE ASSURANCE SOCIETY
OF THE UNITED STATES
C/O COMPASS MANAGEMENT AND LEASING, INC.
11011 NORTH TORREY PINES ROAD #200
LA JOLLA, CALIFORNIA 92037

To Whom It May Concern:

By order and for the account of DepoTech Corporation 11025 North Torrey Pines Road, Suite 200, La Jolla, California 92037, we hereby open in your favor our Irrevocable Letter of Credit No. _____for an aggregate amount of Three Hundred Fifty Thousand and NO/100 (USD 350,000.00) effective immediately and expiring at Citibank, N.A., One Court Square, Letter of Credit Dept., 23rd Floor, Long Island City, New York, NY 11120 at the close of business _____, 1993.

Funds are available against your sight draft(s) drawn on us, mentioning our Letter of Credit No. _____dated _____, 1993, accompanied by your signed written statement reading as follows:

"The applicant of the Credit has failed to comply with the terms and conditions of a contract described as a Lease between DepoTech Corporation and Equitable Life Assurance Society of the United States dated 8-17-93."

We hereby engage with the beneficiary that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon proper presentation to: Citibank, N.A., One Court Square, 23rd Floor, L/C Dept., L.I.C., New York 11120.

Unless otherwise stated, this Credit is subject to the Uniform Customs and Practice for Documentary Credits (1983 Revision) of the International Chamber of Commerce Publication No. 400.

Very truly yours, Citibank, N.A.

Authorized Signature

FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("**First Amendment**") is made and entered into as of the 1st day of November, 1995 by and between THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation ("**Landlord**") and DEPOTECH CORPORATION, a California corporation ("**Tenant**").

R E C I T A L S :

A. Landlord and Tenant entered into that certain Industrial Real Estate Triple Net Lease dated as of August 17, 1993 (" **Lease**"), whereby Landlord leased to Tenant and Tenant leased from Landlord certain premises located on the first (1st) floor within that certain building known as Building No. 6 and located at 11011 North Torrey Pines Road, La Jolla, California 92037 ("**Building**").

B. Tenant wishes to occupy certain portions of the "Phase II Premises" (as that term is defined in the Lease) in stages and the parties otherwise wish to modify the Lease as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Capitalized Terms. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this First Amendment.

2. Square Footage. The parties acknowledge that, notwithstanding anything to the contrary contained in the Lease, (i) the Phase I Premises consists of a total often thousand eight hundred seventy-three (10,873) square feet of Rentable Area and ten thousand (10,000) square feet of Usable area, (ii) the Phase II Premises consists of a total often thousand eight hundred seventy-three (10,873) square feet of Rentable Area and ten thousand (10,000) square feet of Usable Area and (iii) the Phase II Premises has been divided into three (3) separate areas as shown on the floor plan attached hereto as Exhibit "A" and made a part hereof. One (1) such area of the Phase II Premises consists of three thousand two hundred thirty-eight (3,238) square feet of Rentable Area (the "**Office Space**") as shown on Exhibit "A," one (1) such area consists of three thousand two (3,002) square feet of Rentable Area (the " **Lab Space**") as shown on Exhibit "A" and the remaining portion of the Phase II Premises consists of four thousand six hundred thirty-three (4,633) square feet of Rentable Area (the "**Future Space**") as shown on Exhibit "A." Notwithstanding anything to the contrary contained in the Lease, the Premises leased by Tenant shall not include that certain space located on the first (1st) floor of the Building and identified as the " **Retained Space**" on Exhibit "A" and Landlord shall be entitled to lease the Retained Space to third parties.

TORREY PINE SCIENCE PARK
[DEPOTECH]

3. Phase II Premises Commencement Dates. Notwithstanding anything to the contrary contained in the Lease (i) the Commencement Date applicable to the Office Space shall be May 1, 1995, (ii) the Commencement Date applicable to the Lab Space shall be August 18, 1995 and (iii) the Commencement Date applicable to the Future Space shall be January 1, 1996.

4. Tenant Improvements Allowance. The parties acknowledge that prior to the date of full execution and delivery of this First Amendment, Landlord has funded Three Hundred Eighty-Three Thousand Three Hundred Twenty Dollars ($383,320.00) of the Tenant Improvements Allowance applicable to the Phase II Premises. The parties further acknowledge that, notwithstanding anything to the contrary contained in the Lease, Landlord shall have no obligation to fund any additional Tenant Improvements Allowance for the Phase II Premises. Landlord and Tenant agree that Tenant shall, at Tenant's sole cost and expense, upgrade the carpet in the Office Space, paint the walls in the Office Space and replace the ceiling tiles in the Office Space to match the carpet, walls and ceiling tiles currently in place in the office portion of the Phase I Premises. The work described in the immediately preceding sentence may be collectively referred to herein as the "**Remaining Work**." Landlord shall be entitled to approve Preliminary Plans and Final Plans for the Remaining Work and for any improvements Tenant may elect to make to the Future Space pursuant to Section 4 of the Tenant Improvements Rider attached to the Lease as Exhibit "C". Tenant shall have until January 1, 1996 to complete the Remaining Work. If Tenant fails to complete the Remaining Work on or before January 1, 1996, Landlord shall be entitled to complete the Remaining Work pursuant to plans and specifications determined by Landlord and to charge Tenant the costs incurred by Landlord in completing the Remaining Work together with a fifteen percent (15%) administrative fee, all of which shall be due and payable within thirty (30) days after Tenant's receipt of invoice. Finally, Tenant acknowledges that Tenant's obligation to pay Basic Monthly Rent for the Office Space and the Future Space shall commence as of the Commencement Date applicable to such spaces as specified in Section 3 above and that the work to be performed by Tenant or Landlord under this Section 4 shall not result in any rental abatement nor be deemed to constitute a constructive eviction of Tenant from the Office Space or the Future Space.

5. Basic Monthly Rent. Landlord and Tenant acknowledge that Landlord will be deemed to have expended the entire Seventy Dollars ($70.00) per square foot of Usable Area Tenant Improvements Allowance for both the Lab Space and the Office Space as of the Commencement Dates for each such space specified in Section 3 above and that, as a result, the Basic Monthly Rent applicable to such spaces as of the Commencement Dates therefor shall be $1.97 per square foot of Rentable Area therein (i.e., $6,378.86 per month for the Office Space and $5,914.00 per month for the Lab Space). Landlord will have no obligation to fund any Tenant Improvements Allowance for the Future Space, so that the Basic Monthly Rent applicable to the Future Space as of the Commencement Date therefor shall be $5,955.58 (i.e., $1,285 per square foot of Rentable Area). Consequently, as of January 1, 1996, (i) the total Basic Monthly Rent applicable to the Phase II Premises shall be $18,656.03 (i.e., $1,716 per square foot of

Rentable Area of the Phase II Premises calculated on a blended basis), and (ii) the total Basic Monthly Rent applicable to the Phase I Premises shall be $22,130.12 (i.e., $2,035 per square foot of Rentable Area of the Phase I Premises). Such total Basic Monthly Rent rates for the Phase I Premises and for the entire Phase II Premises shall be subject to increase as provided in Section 3.2.2 of the Lease.

6. Additional Rent. As a result of the increased square footages described in Section 2 above (i) effective as of the Commencement Date for the Office Space, Tenant's Share of the Building Operating Costs shall increase to sixteen point four eight percent (16.48%) and Tenant's Share of Taxes and Project Operating Expenses shall increase to four point eight seven percent (4.87%); (ii) effective as of the Commencement Date for the Lab Space, Tenant's Share of Building Operating Costs shall increase to nineteen point nine eight percent (19.98%) and Tenant's share of Taxes and Project Operating Expenses shall increase to five point nine zero percent (5.90%); and (iii) effective as of the Commencement Date for the Future Space, Tenant's Share of Building Operating Costs shall increase to twenty-five point four zero percent (25.40%) and Tenant's Share of Taxes and Project Operating Expenses shall increase to seven point five zero percent (7.50%).

7. Security Deposit/Letter of Credit.

(a) The first paragraph of Section 3.4.3 of the Lease shall be deleted and the following shall be substituted:

"3.4.3 Concurrently with Tenant's execution and delivery of the First Amendment, Tenant shall deliver to Landlord a second Letter of Credit ("**Phase II Letter of Credit**") equal to One Hundred Ninety-One Thousand Six Hundred Sixty Dollars ($191,660.00), which amount shall be reduced as provided in Sections 3.4.3(a) and (b) below. The Phase II Letter of Credit required in this Section 3.4.3 shall be in addition to any Letter of Credit required pursuant to Section 3.4.2, and shall meet all requirements for the Letter of Credit in Section 3.4.2 (other than amount). The amount of Phase II Letter of Credit shall be reduced by the following amounts on the following dates or events:"

(b) For purposes of Section 3.4.3(a) of the Lease, the "Commencement Date for the Phase II Premises" shall mean the Commencement Date applicable to the Future Space specified in Section 3(iii) above.

8. Outside Area. Effective as of November 1, 1995, the Premises shall be expanded to include that certain area located outside of the Building and consisting of approximately three hundred seventy-five (375) square feet as outlined on Exhibit "B" attached hereto and made a party hereof (" **Outside Area**"). Tenant shall be entitled to use, operate and maintain the equipment in the Outside Area shown on Exhibit "B" (collectively, the " **Outside Area Equipment**"). Tenant's use of the Outside Area Equipment is subject to Tenant's receipt of

all applicable governmental permits and approvals and Tenant shall, at Tenant's sole cost and expense, comply with any governmental laws, rules and regulations applicable to the Outside Area and the Outside Area Equipment. Tenant shall not add any additional equipment to the Outside Area without Landlord's prior written consent, which consent shall be granted or denied within thirty (30) days after Landlord's receipt of a written request from Tenant. The Outside Area shall be considered to be a part of the Premises for all purposes under the Lease, including, without limitation, Tenant's indemnification obligations under Section 7.2 of the Lease and the exemption of Landlord from liability under Section 7.3 of the Lease and Tenant shall, notwithstanding anything to the contrary contained in the Lease, be solely responsible for (i) maintenance and repair of the Outside Area and the Outside Area Equipment, and (ii) any utilities and services to the Outside Area. Tenant shall, promptly after full execution and delivery of this First Amendment, but in no event later than January 1, 1996, at Tenant's sole cost and expense, add a chain-link fence from the top of the existing block wall around the Outside Area to the existing roof of the Outside Area in order to completely enclose the Outside Area. Landlord shall have the option to provide written notice to Tenant prior to the expiration or earlier termination of the Lease Term specifying those items of the Outside Area Equipment and/or the surrounding block wall and chain-link fence which must be removed by Tenant, in which case Tenant shall remove such items, at Tenant's sole cost and expense, prior to the expiration or earlier termination of the Lease Term and shall repair any damage to the Outside Area resulting from such removal. If Landlord does not provide such written notice to Tenant prior to the expiration or earlier termination of the Lease Term, then upon the expiration or earlier termination of the Lease Term, the Outside Area Equipment shall become the property of Landlord; furthermore, if Landlord does provide such written notice to Tenant prior to the expiration or earlier termination of the Lease Term but such written notice does not specify all of the Outside Area Equipment and/or surrounding block wall and chain-link fence, then those items not specified by Landlord for removal shall become Landlord's property upon the expiration or earlier termination of the Lease Term. Basic Monthly Rent applicable to the Outside Area shall be Two Hundred Forty-Three and 75/100 Dollars ($243.75) per month throughout the Lease Term, which Basic Monthly Rent shall be payable in accordance with Section 3.1 of the Lease. Basic Monthly Rent applicable to the Outside Area for the month of November, 1995 shall be paid by Tenant concurrently with Tenant's execution and delivery of this First Amendment.

9. No Further Modification. Except as set forth in this First Amendment, all of the terms and provisions of the Lease shall apply and shall remain unmodified and in full force and effect.

TORREY PINES SCIENCE PARK
[DEPOTECH]

IN WITNESS WHEREOF, this First Amendment has been executed as of the day and year first above written.

LANDLORD

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation

By: _____

Its: _____

TENANT

DEPOTECH CORPORATION, a California corporation

By: /s/ Illegible

Its: Chief Financial Officer

TORREY PINES SCIENCE PARK
[DEPOTECH]

EXHIBIT "A"

PHASE II PREMISES

Should the Landlord sublease the Retained Space, Landlord shall, at their expense, relocate the exit door within the Retained Space to Space occupied by Tenant.

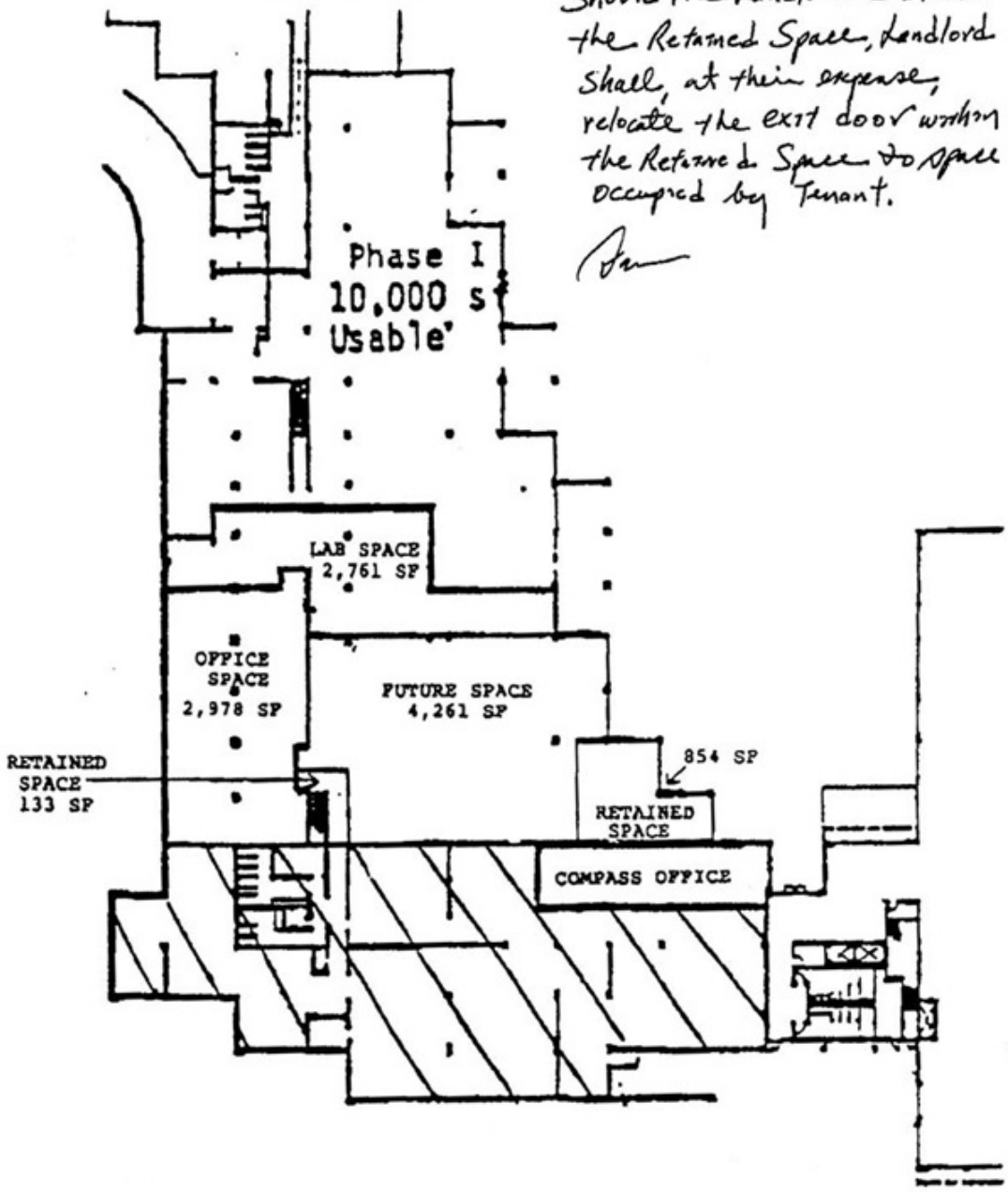


EXHIBIT "A"

TORREY PINES SCIENCE PARK

5319rb150 SD1/RBG/1.28[illegible]11-15-95/cat

FIRST AMENDMENT TO LEASE

Insert A

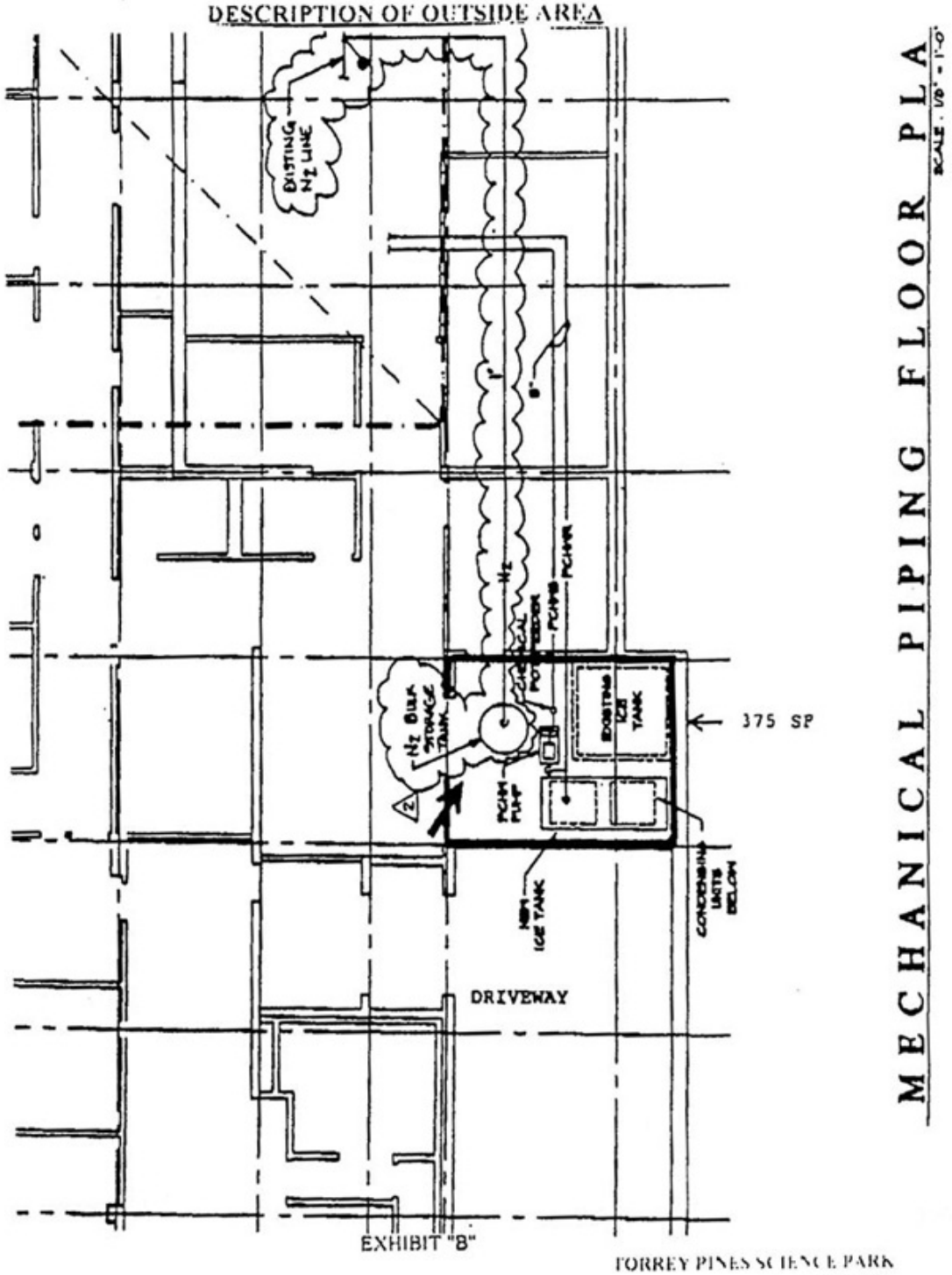
; provided, however, that such date shall be extended for Events of Force Majeure, by delays resulting from Landlord's disapproval of Tenant's Plans and for any other delays resulting from the acts of or failure to act by Landlord, its agents or employees.

Insert B

Within 10 days after delivery of Tenant's Plans for the remaining work, Landlord shall deliver notice of approval or reasonable disapproval of such Plans. The failure of Landlord to deliver notice of disapproval shall be deemed Landlord's approval of the Plans. If Landlord disapproves the Plans, Landlord shall specify the reason for disapproval, and the parties shall meet within two (2) business days to reach agreement on the Plans.

EXHIBIT "B"

DESCRIPTION OF OUTSIDE AREA



MECHANICAL PIPING FLOOR PLA

SCALE: 1/8" = 1'-0"

EXHIBIT "8"

TORREY PINES SCIENCE PARK

53190050 SD1/RBG/E28094806/11-15-95/car

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("**Second Amendment**") is made and entered into as of the 1st day of September, 1998 by and between THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation ("**Landlord**") and DEPOTECH CORPORATION, a California corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into that certain Industrial Real Estate Triple Net Lease dated as of August 17, 1993 (" **Original Lease**"), as amended by that certain First Amendment to Lease dated as of November 1, 1995 (" **First Amendment**"), whereby Landlord leased to Tenant and Tenant leased from Landlord certain premises (the "**Premises**") located on the first (1st) floor within that certain building known as Building No. 6 and located at 11011 North Torrey Pines Road, La Jolla, California 92037 ("**Building**"). The Original Lease, as amended by the First Amendment, may be referred to herein as the "**Lease**."

B. Landlord and Tenant wish to reconfigure a portion of the Premises and the parties otherwise wish to modify the Lease as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Capitalized Terms. All capitalized terms when used herein shall have the same meaning as is given such terms in the Original Lease unless expressly superseded by the terms of this Second Amendment.

2. Premises. Notwithstanding anything to the contrary contained in the Lease, effective as of September 1, 1998, the Premises leased to Tenant shall include all of the space on the first (1st) floor of the Building designated "DEPOTECH" on Exhibit "A" attached hereto and made a part hereof (in addition to other space described in the Lease) and shall exclude all of the area shown with cross hatching on Exhibit "A" attached hereto. The parties agree that the reconfiguration of the Premises described in the immediately preceding sentence shall not modify the Rentable Area nor the Usable Area of the Premises. Landlord and Tenant acknowledge and agree that such reconfigured Premises shall be leased by Tenant in its "as is" condition, except that Landlord shall, at Landlord's sole cost and expense and using Building-standard materials, (i) install a total of two (2) separate doors, and (ii) install a fire wall, at the locations shown on Exhibit "A".

3. No Further Modification. Except as set forth in this Second Amendment, all of the terms and provisions of the Lease shall apply and shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

LANDLORD

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation

By: /s/ Illegible

Its: Investment Officer

TENANT

DEPOTECH CORPORATION, a California corporation

By: /s/ John P. Longenecker

Its: President & COO

TORREY PINES SCIENCE PARK
[DEPOTECH]

EXHIBIT "A"

RECONFIGURED PREMISES

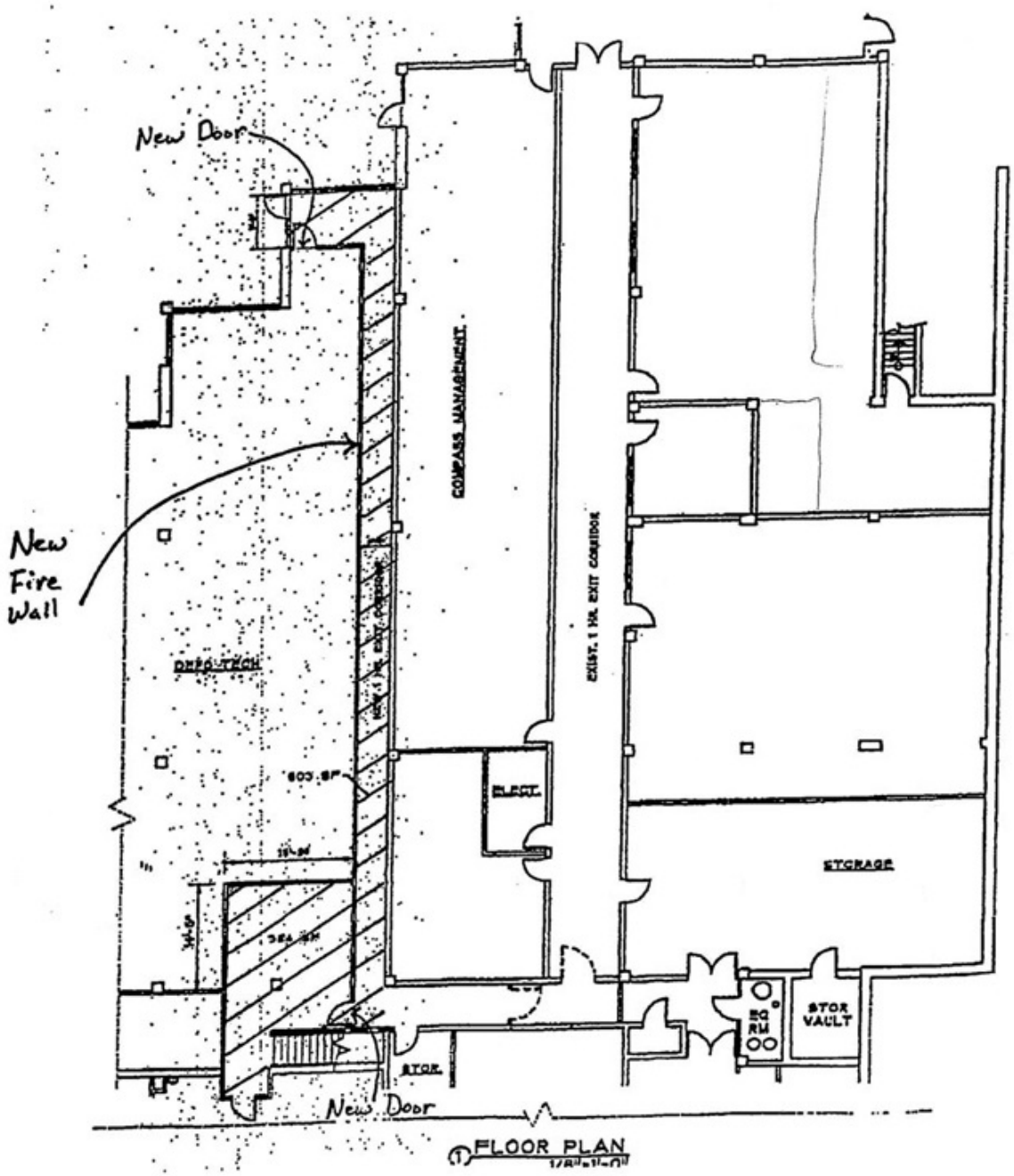


EXHIBIT "A"

TORREY PINES SCIENCE PARK
[DEPOTECH]

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE ("Third Amendment"), is made and entered into as of the 28 th day of June, 2004 (the "Effective Date"), between Slough TPSP, LLC, a Delaware limited liability company (hereinafter called "Landlord"), and SkyePharma Inc., a California corporation (hereinafter called "Tenant").

Recitals

A. Landlord acquired the Building (as defined below) from the Equitable Life Assurance Society of the United States, a New York corporation ("Prior Landlord"), on September 7, 2001. In conjunction therewith, Prior Landlord assigned to Landlord, Landlord accepting such assignment, all of Prior Landlord's right, title and interest in, to and under the Lease (as defined below).

B. Prior Landlord and Tenant entered into that certain Lease dated as of August 17, 1993, as amended by that certain First Amendment to Lease dated November 1, 1995, and as further amended by that certain Second Amendment to Lease dated September 1, 1998 (as amended, the "Lease"). Pursuant to the Lease, Prior Landlord leased to Tenant and Tenant leased from Prior Landlord certain space commonly known as Suite 130 (the "Premises"), in the building located and addressed at 11011 N. Torrey Pines, La Jolla, California (the "Building"). The Lease is incorporated herein by this reference.

C. By this Third Amendment, Landlord and Tenant desire to extend the term of the Lease and to otherwise modify the Lease as provided herein.

D. Unless otherwise defined herein, capitalized terms as used herein shall have the same meanings as given thereto in the Lease.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree, effective as of Effective Date, as follows:

Agreements

1. **Lease Expiration Date**. Section 1.5 of the Lease is hereby amended by deleting the last sentence and inserting the following in lieu thereof: "The Lease Term for all of the Premises shall end on July 31, 2015 (the "Initial Lease Term") unless extended pursuant to Section 2.5 below."

2. **Rent and Other Charges Payable by Tenant**. **(a)** Section 1.9.1 of the Lease is hereby deleted and the following is inserted in lieu thereof:

1.9.1 Basic Monthly Rent. The basic monthly rent for the Premises (the "Basic Monthly Rent") shall be as follows:

Portion of Term	Basic Monthly Rent PSF[1]	Basic Monthly Rent[1], Based Upon 21,746 Rentable Square Feet
From Execution Date to April 30, 2005, inclusive	$2.50	$54,365.00
From May 1, 2005 to April 30, 2006, inclusive	$2.58	$55,995.95
From May 1, 2006 to April 30, 2007, inclusive	$2.65	$57,675.83
From May 1, 2007 to April 30, 2008, inclusive	$2.73	$59,406.10
From May 1, 2008 to April 30, 2009, inclusive	$2.81	$61,188.29
From May 1, 2009 to April 30, 2010, inclusive	$2.90	$63,023.94
From May 1, 2010 to April 30, 2011, inclusive	$2.99	$64,914.65
From May 1, 2011 to April 30, 2012, inclusive	$3.07	$66,862.09
From May 1, 2012 to April 30, 2013, inclusive	$3.17	$68,867,96
From May 1, 2013 to April 30, 2014, inclusive	$3.26	$70,933.99
From May 1, 2014 to April 30, 2015, inclusive	$3.36	$73,062.01
From May 1, 2015 to July 31, 2015, inclusive	$3.46	$75,253.87

[1] Basic Monthly Rent PSF (except for the initial Basic Monthly Rent PSF) is rounded and is for general illustrative purposes only. The actual amount is calculated in the Basic Monthly Rent column and is an increase of 3.0% over that for the previous year.

(b) Section 1.9.2 of the Lease is hereby modified by deleting the following: "(v) Building Operating Costs."

(c) Section 1.9.3 is hereby deleted.

3. **Option to Extend or Renew**. Sections 2.5, 2.6, 2.7 and 2.8 of the Lease are hereby deleted, and the following is inserted as new Section 2.5:

2.5 Option to Extend or Renew. Subject to the provisions of this Section 2.5, Tenant shall have the option (the "Renewal Option") to renew this Lease for one (1) period of five (5) years the ("Renewal Term"), commencing on the day immediately following the last day of the Initial Lease Term.

(a) Exercise. Tenant shall exercise the Renewal Option by giving written notice thereof to Landlord not more than twenty-four (24) months and not less than twelve (12) months prior to the last day of the Initial Lease Term. Tenant's notice of its exercise of the Renewal Option is the "Renewal Notice."

(b) Terms.

(i) General. All terms and conditions of this Lease shall apply during the Renewal Term, except that: (A) Landlord shall not provide any allowances nor be required to effect any improvements to the Premises; and (B) the Basic Monthly Rent for the Renewal Term shall equal to the "then prevailing fair market base monthly rent" (assuming a fully "net" lease, allowing for escalations and taking into account any rent abatement periods, tenant improvements, allowances or other concessions) then being obtained by Landlord for properties in the Project of equivalent quality, size, utility and location, with the length of the lease term, and credit standing of the Tenant taken into account. If there is no such comparable space in the Project, the "then prevailing fair market base monthly rent" shall be based on the rates being obtained by other landlords in comparable projects in central San Diego County.

(ii) Determination of Rent. With respect to the determination of the "then prevailing fair market base monthly rent," the parties shall have thirty (30) days following Landlord's receipt of the Renewal Notice in which to agree on the prevailing fair monthly rent as of the commencement date of the Renewal Term for the uses permitted hereunder. If the parties agree on such fair market monthly rental value, they shall execute an amendment to this Lease stating the amount of the applicable Basic Monthly Rent. If the parties are unable to agree on such prevailing fair market monthly rent within such thirty (30) day period, then within fifteen (15) days after the expiration of such period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser who is a member in good standing of the Appraisal Institute holding an "M.A.I." designation with at least five years experience appraising similar commercial properties in northern San Diego County to appraise and set the then prevailing fair market monthly rent value at the commencement date of the Renewal Term, in accordance with the standards specified in subparagraph (b)(i)(B). If either party fails to appoint an appraiser within the allotted time, the single appraiser appointed by the other party shall be the sole appraiser. If an appraiser is appointed by each party and the two appraisers so appointed are unable to agree upon such then prevailing fair market monthly rent within thirty (30) days after the appointment of the second appraiser, they shall appoint a third qualified appraiser within ten (10) days after expiration of such thirty (30) day period; if they are unable to agree upon a third appraiser, either party may, upon not less than five days notice to the other party, apply to the Presiding Judge of the San Diego County Superior Court for the appointment of a third qualified appraiser. Each party shall bear its own legal fees in connection with appointment of the third appraiser and shall bear one-half of any other costs of appointment of the third appraiser and of such third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted for either party in any capacity. Within thirty (30) days

after the appointment of the third appraiser, the three appraisers shall set the then prevailing fair market monthly rent as of the commencement date of the Renewal Term and shall so notify the parties. If the three appraisers are unable to agree within the allotted time, the two appraised then prevailing fair market monthly rents which are closest together shall be added together and divided by two and the resulting quotient shall be the initial then prevailing fair market monthly rent, which determination shall be binding on the parties and shall be enforceable in any further proceedings relating to this Lease. The appraisers may award a tenant improvement allowance or other monetary concessions, and shall take into account any other such concessions.

(c) Tenant Default. If at the time when Landlord received the Renewal Notice or on the date of the commencement of the Renewal Term, Tenant shall be in default under this Lease (after the expiration of any applicable notice and cure periods granted in this Lease), Landlord shall have the right, by giving written notice thereof to Tenant, to cancel the Renewal Option and any exercise of such Renewal Option by Tenant. In the event of such cancellation, Tenant shall have no right, and Landlord shall have no obligation, to renew this Lease pursuant to such Renewal Option.

(d) Limitations on Renewal Option. If Tenant fails to exercise the Renewal Option within the time required, such failure shall automatically cancel such Renewal Option, and Tenant shall have no right, and Landlord shall have no obligation, to renew this Lease pursuant to such Renewal Option. If Tenant assigns or transfers any interest in this Lease or sublets any part of the Premises other than pursuant to a Permitted Transfer, then notwithstanding anything contained herein to the contrary, such assignment, transfer or sublease shall automatically cancel any Renewal Option which has not then been exercised and automatically cancel any previous exercise of the Renewal Option unless the Renewal Term has already then commenced or Landlord otherwise agrees in writing. In the event of any such cancellation, Tenant shall have no further rights under this Section.

4. **Rent and Security Deposit**. Sections 3.1, 3.2, 3.3 and 3.4 of the Lease are hereby deleted and the following are inserted as new Sections 3.1 and 3.2:

Section 3.1 Basic Monthly Rent. Tenant agrees to pay to Landlord (or to such other person) as directed in advance, without demand or any set off or deduction whatsoever, at such place as Landlord may from time to time in writing direct, Basic Monthly Rent as set forth in Section 1.9.1 of this Lease on or before the first day of every calendar month of the Lease Term (except for the first month's rent which is due and payable upon the execution of this Third Amendment) and pro rata, in advance, for any partial month, without demand and without any set off or deduction whatsoever. The covenants to pay Rent shall be independent of any other covenant. In the event that Tenant shall fail to pay Basic Monthly Rent or Additional Rent due hereunder within five (5) business days after the same becomes due, then in addition to all rights, powers and remedies provided herein, by law or otherwise in the case of nonpayment of rent, Landlord shall be entitled to recover from Tenant and Tenant agrees to pay to Landlord, on demand, a late payment charge for each such payment due equal to ten percent (10%) of the amount due.

Section 3.2 Security Deposit. Tenant has deposited with Landlord the sum of $49,883.12 (the "Security Deposit") as security for the faithful performance and observance by

Tenant of the provisions of this Lease. If Tenant shall default in respect of any such provision, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any rent and/or other charge or any other sum as to which Tenant is in default or for any sum which Landlord may have expended or may be required to expend by reason of Tenant's default, including, but not limited to, any damages or deficiency in the reletting of the Premises. In the case of any such application by Landlord, Tenant shall deposit with Landlord from time to time within five (5) days after Landlord's written demand therefor sufficient additional funds to restore such Security Deposit to the amount set forth above. If Tenant shall fully and faithfully comply with all of the conditions of this Lease, the Security Deposit shall be returned to Tenant after the date fixed as the end of the Lease Term and within thirty (30) days after delivery to Landlord of entire possession of the Premises. In no event shall the Security Deposit be applied by Tenant to reduce any rent or other charge payable by Tenant.

5. **Common Areas**. Section 4.4 of the Lease is amended as follows:

(a) The first sentence of Section 4.4.1 of the Lease is hereby amended by (i) deleting the word "not" on the third line thereof, and by inserting the phrase "without limitation" after the word "including" on the third line thereof, and (ii) inserting the phrase "or any other building in the Project" after the word Building on each of the fourth (at the end of said line, not in the phrase "Building Common Areas"), sixth and eighth lines thereof.

(b) Section 4.4.4 is hereby amended by deleting the six (6) references to "Project Common Areas" and inserting in lieu thereof (in each instance) the phrase "Common Areas".

(c) The following Sections are hereby deleted: (i) 4.4.5.2; (ii) 4.4.6; and (iii) 4.4.7 (and each subsection of said Section 4.4.7).

(d) Section 4.4.8 is hereby amended by deleting the phrase "Building Operating Costs or" from the second line thereof.

6. **Tenant Insurance**. (a) Section 7.1.1 of the Lease is hereby deleted and the following is inserted in lieu thereof:

7.1.1. Tenant Insurance. Tenant, at Tenant's sole cost and expense, shall obtain and keep in force during the Lease Term:

(i) commercial general liability insurance, including contractual liability and products/completed operations liability, covering the legal liability of Tenant against claims for bodily injury, death or property damage, occurring on, in or about the Project, in the minimum combined single limit amount of $2,000,000 with respect to any one occurrence.

(ii) worker's compensation insurance and employer's liability insurance (with a minimum limit of $500,000) covering all liability imposed under the provisions of any worker's compensation law, employer's liability act or similar laws of the State of California that may at any time or from time to time be enacted;

(iii) insurance covering the Tenant Improvements, all contents, and Tenant's trade fixtures, machinery, equipment, furniture and furnishing in the Premises for their full

replacement cost under Special Form standard fire and extended coverage insurance, including, without limitation, vandalism and malicious mischief and sprinkler leakage endorsements, and shall provide for a deductible not to exceed $100,000.00, provided that Tenant shall be solely responsible for payment of the full amount of any such deductible;

(iv) special form, business interruption or extra expense insurance; and

(v) catastrophe excess – Umbrella liability insurance in the amount of $5,000,000 with respect to the risks referred to in Section 7.1.1(i), which shall apply specifically to the Project with a per location aggregate endorsement.

Tenant's insurance shall be written under policies issued by insurers acceptable to Landlord, and shall name Landlord, its beneficiaries, agents and employees as additional insureds. Tenant's insurance required hereunder shall be primary and shall be exhausted before Landlord's insurance is invoked. All policies of property insurance carried by Tenant shall provide protection against "all perils of direct physical damage" (as defined by the Insurance Services Office) on all insured property and shall name Landlord as an additional insured. Replacement cost for purposes hereof shall be determined according to insurance industry standards. Such insurance policies: (i) shall be written by companies rated A or better, with a financial rating of not less than Class VII, in Best's Insurance Guide, and authorized to do business in California; (ii) shall be written to apply to covered property damage and other covered loss occurring during the policy term, or the onset of which occurred or arose during such policy term; (iii) unless otherwise provided in this Lease, shall provide that the respective coverages shall be primary and not contributing with or in excess of any coverage that the other party may carry; (iv) shall be endorsed to Landlord with not less than thirty (30) days' notice of cancellation, except that not less than ten (10) days' notice of cancellation may be given in the event of non-payment of the premium; and (v) in the case of policies carried or required to be carried by Tenant, shall provide for a deductible of not to exceed $100,000 (except in the case of earthquake coverage). Tenant shall deliver to Landlord, on or before the Effective Date, and thereafter at least thirty (30) days before the expiration dates of expiring policies, certificates of insurance or other satisfactory evidence of the continuation of such property insurance coverage for the period indicated therein. If Tenant fails to procure property insurance or to deliver certificates or other evidence thereof as required hereunder, Landlord, after written notice to Tenant and Tenant's failure to cure the same within two (2) business days after Tenant's receipt of such notice, may at its option and in addition to Landlord's other remedies in the event of a default hereunder, procure the same for the benefit of Landlord. If, pursuant to the foregoing sentence, Landlord secures such insurance on Tenant's behalf, Tenant shall reimburse Landlord for the cost thereof within ten (10) business days after receipt of Landlord's invoice therefore.

(b) Section 7.1.2 of the Lease is hereby amended by deleting each use of the word "Building" in the fourth (4 th) line, and inserting in lieu thereof (in each instance) the word "Project". The last sentence of Section 7.1.2 is hereby deleted.

(c) Section 7.1.3 of the Lease is hereby deleted and the following is inserted in lieu thereof:

7.1.3 Payment of Premiums; Insurance Policies. Tenant shall pay its pro rata share of the premiums for maintaining the insurance required by Subsection 7.1.2. Tenant pro rata share of all such premiums shall be the same proportion as used for payment of Project Operating Costs as set forth in Subsection 1.9.4 hereof. All such amounts will be due and payable upon ten (10) days written notice.

7. **Termination**. The following is hereby added as new Article Sixteen of the Lease:

XVI
TENANT TERMINATION OPTION

Subject to the terms and conditions of and compliance with the provisions of this Article XVI, Tenant shall have the option (the "Termination Option") to terminate this Lease effective at any time after the seventh (7th) anniversary of the Execution Date, as follows:

(a) Exercise. Tenant shall exercise the Termination Option by giving written notice (the "Termination Notice") thereof to Landlord not more than twenty-four (24) months and not less than twelve (12) months prior to the proposed termination date set forth in the Termination Notice (the "Early Termination Date").

(b) Termination Fee. Provided Tenant has delivered the Termination Notice to Landlord in the manner and within the time periods set forth in Subsection (a) above, Tenant's right to terminate this Lease pursuant to the Termination Option shall be further conditioned on Tenant's payment to Landlord, concurrent with delivery of the Termination Notice, of a sum equal to the (i) unamortized leasing commissions as of the Early Termination Date, plus (ii) the aggregate of the Monthly Basic Rent and Tenant's proportionate share of Real Property Taxes, Project Operating Expenses and Building Operating Costs that would have been payable by Tenant in the four (4) months immediately following the Early Termination Date (the "Termination Fee").

(c) Tenant Default. If at the time when Landlord receives the Termination Notice or on the Early Termination Date, Tenant shall be in default under this Lease (after the expiration of any applicable notice and cure periods granted in this Lease), Landlord shall have the right, by giving written notice thereof to Tenant, to cancel Tenant's exercise of the Termination Option by Tenant. In such event, (i) Landlord shall (within thirty (30) days after such cancellation) return to Tenant an amount equal to the Termination Fee paid by Tenant, less any Rent then due but not paid, and (ii) Tenant shall have no right, and Landlord shall have no obligation, to terminate this Lease pursuant to such exercise of the Termination Option. If Tenant thereafter cures the default(s) giving rise to Landlord's cancellation, and no further default exists, then Tenant may again exercise the Termination Option subject to and in accordance with this Article XVI.

(d) Limitations on the Termination Option. If Tenant fails to exercise the Termination Option or pay the Termination Fee within the respective time periods provided for in this Article XVI, such failure shall automatically cancel the Termination Option, and Tenant shall have no right, and Landlord shall have no obligation, to terminate this lease pursuant to the Termination Option.

8. **Brokers**. Tenant and Landlord each represents and warrants to the other that it has had no dealings with any broker or agent in connection with this Third Amendment other than CB Richard Ellis, Inc. and Burnham Real Estate Services (collectively, "Brokers"). Tenant covenants to pay, hold harmless and indemnify Landlord from and against any and all cost, expense or liability for any compensation, commissions or charges claimed by any agent or broker other than Brokers with which it has had dealings or otherwise by reason of any breach of said warranty. Landlord covenants to pay, hold harmless and indemnify Tenant from and against any and all cost, expense or liability for any compensation, commissions or charges claimed by any agent or broker with which it has had dealings or otherwise by reason of any breach of said warranty. The Landlord shall pay all commissions due Brokers in connection with this Third Amendment.

9. **No Tenant Improvements**. Tenant acknowledges that Landlord shall have no obligation to make any alterations or improvements to the Premises in connection with the extension of the Lease Term as set forth in this Third Amendment. Exhibit "C" of the Lease is hereby deleted.

10. **Termination of Other Lease**. As a condition of, and in consideration for, Tenant's agreement to extend the term of the Lease as set forth herein, Landlord has agreed to terminate Tenant's lease of that certain space commonly known as Suite 100, 11025 North Torrey Pines Road, LaJolla, California on the terms and conditions set forth in the Termination Agreement attached hereto as Exhibit A. The parties shall, contemporaneous with the execution and delivery of this Third Amendment, execute and deliver the Termination Agreement.

11. **Cross-Default**. Section 11.2.5 of the Lease is hereby deleted.

12. **No Further Modifications**. Except as set forth in this Third Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect. Effective as of the Effective Date, all references to the "Lease" shall refer to the Lease as amended by this Third Amendment. In the event of any conflict between the terms of the Lease and the terms of this Third Amendment, the terms of this Third Amendment shall control. This Third Amendment shall be binding upon and inure to the benefit of Landlord, Tenant and their respective successors and permitted assigns.

IN WITNESS WHEREOF, this Third Amendment has been executed as of the day and year first above written.

LANDLORD:

SLOUGH TPSP, LLC, a Delaware limited liability company

By: /s/ R. W. Rohner
Name: Randall W. Rohner
Its: V.P.

TENANT:

SKYEPHARMA INC., a California corporation

By: /s/ Thomas M. Zach
Name: Thomas M. Zach
Its: V.P. Finance & Secretary

EXHIBIT A

TERMINATION AGREEMENT

THIS TERMINATION AGREEMENT is made as of the 28th day of June, 2004 by and between SkyePharma Inc., a California corporation (the "Tenant"), and Slough TPSP LLC, a Delaware limited liability company (the "Landlord").

RECITALS

A. Landlord, as successor in interest to Equitable Life Assurance Society of the United States, a New York corporation, and Tenant, as successor in interest to Depotech Corporation, a California corporation, are parties to that certain lease dated April 2, 1992, as amended by that certain First Amendment dated September 30, 1993 (as amended, the "Lease") with respect to certain premises commonly known as Suite 100, 11025 North Torrey Pines Road, La Jolla, California (the "Premises"); and

B. Landlord and Tenant hereby desire to terminate their respective rights under the Lease in accordance with the provisions hereinafter set forth and for the consideration set forth herein.

AGREEMENT

In consideration of the foregoing recitals, the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord hereby agree as follows:

1. ***Termination of Lease; Surrender of Premises***. The Lease is terminated and declared to be of no further force and effect as of 11:59 P.M. on July 1, 2004 (the "Effective Date") and Tenant's right to occupy the Premises shall cease at the Effective Date. On or before the Effective Date, Tenant shall peaceably surrender the Premises in the condition required under the Lease. Notwithstanding the foregoing, Landlord and Tenant acknowledge and agree that, subject to Tenant leaving the Premises in broom clean condition, the Premises are currently in the condition required by the Lease for surrender to Landlord. Landlord and Tenant further acknowledge and agree that the furniture, fixtures and equipment listed on Schedule 1 attached hereto may remain in the Premises after the Effective Date and that, as of the Effective Date, the same shall be deemed conveyed to Landlord, at no cost to Landlord. Tenant shall have no obligation to pay rent or any other amounts payable by Tenant under the Lease accruing after the Effective Date.

2. ***Mutual Release and Waiver***. Except for those obligations stated in this Termination Agreement which are intended to continue beyond the termination of the Lease, effective as of the Effective Date each party hereto, for itself and each of its respective past, present and future predecessors, successors, subsidiaries, parents, assigns, agents, representatives, partners, officers, managers, directors, shareholders, members, employees, administrators, trustees and attorneys hereby fully and forever remises, releases relinquishes,

waives and discharges the other party hereto, and all of its past, present and future predecessors, successors, subsidiaries, parents, assigns, agents, representatives, partners, officers, managers, directors, shareholders, members, employees, administrators, trustees and attorneys of and from any and all actions, causes of action, rights, liabilities, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, subleases, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, and claims of whatever kind or nature in law or equity, whether now known or unknown, vested or contingent, suspected or unsuspected, which said party may now have, ever had or will have against the other party which in any way relates, directly or indirectly, to the Lease or the Premises. The foregoing release constitutes a general release by each party. Landlord and Tenant have read Section 1542 of the California Civil Code and understand that the significance and consequence of waiving Section 1542 of the California Civil Code is that even if the releasing party should eventually suffer additional damages arising in connection with the Lease, the releasing party will not be allowed to make any claim for those damages. After independent consultation with its attorney or ample opportunity to do so, **LANDLORD AND TENANT EXPRESSLY WAIVE ANY AND ALL RIGHTS UNDER SECTION 1542 OF THE CALIFORNIA CIVIL CODE**and any similar of any state or territory of the United States that it may have against each other (or each other's officers, directors, shareholders, partners, members, trustees, employees and all persons acting by, through or in concert with them) with respect to the release set forth in this Section 2. Section 1542 of the California Civil Code reads as follows:

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

/s/ RWR	/s/ T.J.
Landlord's Initials	Tenant's Initials

Notwithstanding any provision to the contrary set forth herein, Landlord and Tenant acknowledge and agree that the release set forth in this Section 2 does not release or discharge Tenant or Landlord, and Tenant and Landlord shall continue to be liable for, all indemnification obligations under the Lease including, but not limited to, paragraphs 5.4.1, 7.2, 7.4 and 14.1.2. of the Lease. In addition, the foregoing shall not release, and shall not be construed as releasing, Landlord or Tenant from any liability arising under this Termination Agreement, it being understood and agreed that Landlord's or Tenant's representations, warranties, covenants and agreements herein shall survive the execution of this Termination Agreement and the Effective Date.

3. ***Tenant's Additional Rent Obligations.*** Notwithstanding anything to the contrary contained in Section 2 of this Termination Agreement, Tenant shall be obligated to pay all Real Property Taxes and Project Operating Expenses, as those terms are defined in the Lease, that accrued against the Premises through the Effective Date which are owed by Tenant to Landlord

under Article IV of the Lease, which obligation shall survive execution of this Termination Agreement and the Effective Date. Additionally, Tenant's rights to review and audit Landlord's records after Landlord's delivery of any statements as set forth in Article IV of the Lease, and Tenant's right to receive a refund of any amounts overpaid, shall survive execution of this Termination Agreement and the Execution Date.

4. ***Security Deposit.*** Provided Tenant has surrendered possession of the Premises in accordance with the terms of this Termination Agreement and the Lease, and provided Tenant is not otherwise in default under the terms of the Lease or this Termination Agreement, Landlord shall return to Tenant, within thirty (30) days of the Effective Date, the security deposit held by Landlord pursuant to the Lease.

5. ***Interpretation of Termination Agreement.*** In the event of any conflict between the Lease and this Termination Agreement, the terms of this Termination Agreement shall control. Initially capitalized terms not otherwise defined in this Termination Agreement shall have the meaning ascribed to such term in the Lease.

6. ***Binding Effect.*** The provisions of this Termination Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors, personal representatives and assigns. This Termination Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute but one and the same instrument. Documents and signatures transmitted via facsimile shall be considered original signatures for purposes of creating a valid and binding agreement.

7. ***Governing Law.*** This Termination Agreement shall be governed by and construed under the laws of the state in which the Premises are located.

8. ***Entire Agreement.*** This Termination Agreement is made up of the body of the agreement and the exhibits and schedules attached hereto, if any, all of which are hereby incorporated by reference into the body hereof. There are no other agreements between the parties with respect to the matters covered by this Termination Agreement, and any prior agreements with respect to such matters are superseded, except to the extent any provision of this Termination Agreement provides otherwise.

9. ***Amendment.*** The only way to amend or otherwise modify this Termination Agreement is for the parties to sign a written instrument which expresses the intent to amend or otherwise modify this Termination Agreement.

10. ***Notice.*** All notices and other written communications which are required or called for under any provision of this Termination Agreement shall be effective only if they are in writing, addressed to the proper party and sent in one of the following ways: (i) by United States mail; (ii) by a recognized overnight carrier, such as Federal Express or United Parcel Service, marked for next day delivery; or (iii) by facsimile transmission, in each case with delivery charges (if any) prepaid and addressed as set forth below. Any party may change its address for notice by giving notice to the other parties in the manner provided herein. Such a notice or other communication shall be deemed delivered at the following times: if sent by United States mail, then three business days after the deposit thereof into the United States mail,

certified mail return receipt requested; if sent by a recognized overnight carrier, then one business day after the acceptance by the carrier for next day delivery; and if by facsimile, on the business day it is sent if the sender verifies that the notice was received at the recipient's facsimile machine during regular business hours on the day sent—otherwise, on the next business day; provided, that any notice or other communication sent by facsimile must be reasonably legible when received by a properly operating facsimile receiver.

If to Tenant:	SkyePharma Inc. 10450 Science Center Drive San Diego, California 92121 Attn: Thomas Zech
With a copy to:	Sheppard Mullin Richter & Hampton LLP 12544 High Bluff Drive, Suite 300 San Diego, California 92130-3051 Attn: Domenic Drago
If to Landlord:	Slough TPSP LLC c/o Slough Estates USA Inc. 444 North Michigan Avenue, Suite 3230 Chicago, Illinois 60611
With a copy to:	Bell, Boyd & Lloyd LLC Three First National Plaza 70 West Madison Street, Suite 3300 Chicago, Illinois 60602 Fax Number: (312)827-8042 Attn: Andrew R. Andreasik

11. **Broker's Commissions.** Each party represents and warrants to the other that it has not entered into any agreement or incurred or created any obligation which might require the other party to pay any broker's commission, finder's fee or other commission or fee relating to this Agreement, except that Landlord shall pay commissions to Burnham Real Estate Services and CB Richard Ellis, Inc. with respect to Landlord and Tenant entering into an amendment to Tenant's lease for certain premises at 11011 North Torrey Pines Road. Each party shall protect, indemnify, defend and hold harmless the other and their respective officers, directors, shareholders, members, managers, employees and agents from and against all claims for any such commissions or fees made by anyone claiming by or through the indemnifying party.

IN WITNESS WHEREOF, the parties have executed this Termination Agreement as of the date first written above.

TENANT:

SKYEPHARMA INC.
a California corporation

By: /s/ Thomas M. Zach
Name: Thomas M. Zach
Its: V.P. Finance & Secretary

LANDLORD:

SLOUGH TPSP LLC,
a Delaware limited liability company

By: /s/ R. W. Rohner
Name: Randall W. Rohner
Its: V.P.

SCHEDULE 1

15

FOURTH AMENDMENT TO INDUSTRIAL REAL ESTATE TRIPLE NET LEASE

This FOURTH AMENDMENT TO INDUSTRIAL REAL ESTATE TRIPLE NET LEASE ("**Fourth Amendment**") is made and entered into as of the 2nd day of July, 2009, by and between HCP TPSP, LLC, a Delaware limited liability company ("**Landlord**"), and PACIRA PHARMACEUTICALS, INC., a California corporation ("**Tenant**").

R E C I T A L S :

A. Landlord (as successor-in-interest to Slough TPSP, LLC, a Delaware limited liability company, the successor-in-interest to The Equitable Life Assurance Society of the United States, a New York corporation) and Tenant (as successor-in-interest to SkyePharma, Inc., a California corporation, the successor-in-interest to Depotech Corporation, a California corporation) are parties to that certain Industrial Real Estate Triple Net Lease dated August 17, 1993 (the "**Original Lease**"), as amended by that certain First Amendment to Lease dated November 1, 1995 (the " **First Amendment**"), that certain Second Amendment to Lease dated September 1, 1998 (the "**Second Amendment**") and that certain Third Amendment to Lease dated June 28, 2004 (the "**Third Amendment**"), whereby Landlord leases to Tenant and Tenant leases from Landlord approximately 21,746 rentable (20,000 usable) square feet of space (the "**Premises**") commonly known as Suite 130 and located on the first (1st) floor of the building (the "**Building**") located at 11011 North Torrey Pines Road, La Jolla, California 92037. The Original Lease, First Amendment, Second Amendment and Third Amendment shall hereafter be referred to, collectively, as the "**Lease**."

B. As an accommodation to Tenant, Landlord and Tenant have agreed to defer a portion of Tenant's monthly installments of Basic Monthly Rent for the Premises during the period commencing retroactively as of February 1, 2009 and ending on March 31, 2010. Therefore, Landlord and Tenant desire to enter into this Fourth Amendment to define Tenant's deferred rent amount and deferred rent period, to state the applicable terms and conditions relating thereto (including, without limitation, the applicable return and repayment terms) and to make other modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

C. Concurrent with Landlord's and Tenant's execution of this Fourth Amendment, LASDK LIMITED PARTNERSHIP, a Delaware limited partnership, an affiliate of Landlord, and Tenant are entering into that certain Second Amendment to Industrial Real Estate Lease dated as of even date herewith (the **"TPSC Second Amendment**") amending that certain Industrial Real Estate Lease dated December 8, 1994, as amended (the " **TPSC Lease**").

A G R E E M E N T :

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this Fourth Amendment.

2. **Condition of the Premises**. Landlord and Tenant acknowledge that Tenant has been occupying the Premises pursuant to the Lease, has had full opportunity to review the condition thereof and has done so, and therefore, Tenant shall continue to accept the Premises in its presently existing, "as is" condition. Landlord shall not be obligated to provide or pay for any build-out of, or alteration to, the Premises.

3. **Basic Monthly Rent Deferment**. As an accommodation to Tenant, the parties hereby agree that, so long as Tenant is not then and has not previously (but subsequent to the date hereof) been in "Monetary Default," as that term is defined below, fifty percent (50%) of each installment of the Basic Monthly Rent payable by Tenant under the Lease in connection with the Premises (the " **Deferred Basic Rent**"), for each month during the period commencing retroactively as of February 1, 2009 and ending on March 31, 2010 (the " **Deferment Period**"), shall be conditionally deferred (in accordance with the deferment schedule set forth below) and shall, except as otherwise provided herein, not be due by Tenant until the applicable time period specified in Section 5 below. Landlord and Tenant acknowledge and agree that the Deferred Basic Rent for the entire Deferment Period is equal to a total of Four Hundred Thirty-Eight Thousand Four Hundred Fourteen and 12/100 Dollars ($438,414.12) (excluding Landlord's return, as described below). The Deferred Basic Rent shall accrue during the Deferment Period as follows:

Month During Deferment Period	Applicable Monthly Deferment Amount	Deferred Basic Rent
February 2009	$30,594.15	$ 30,594.15
March 2009	$30,594.15	$ 61,188.30
April 2009	$30,594.15	$ 91,782.45
May 2009	$31,511.97	$123,294.42
June 2009	$31,511.97	$154,806.39
July 2009	$31,511.97	$186,318.36
August 2009	$31,511.97	$217,830.33
September 2009	$31,511.97	$249,342.30
October 2009	$31,511.97	$280,854.27
November 2009	$31,511.97	$312,366.24
December 2009	$31,511.97	$343,878.21
January 2010	$31,511.97	$375,390.18
February 2010	$31,511.97	$406,902.15
March 2010	$31,511.97	$438,414.12

The rent deferment arrangement contained in this Section 3 is personal to the Tenant named in this Fourth Amendment (the "**Original Tenant**") and any "Affiliate," as such term is defined below, to whom Original Tenant's entire interest in the Lease, as hereby amended, has been assigned (the " **Affiliate Assignee**") and shall only apply to the extent that the Original Tenant or its Affiliate Assignee (if applicable) remains the tenant under the Lease, as amended hereby. For purposes of this Fourth Amendment, an "**Affiliate**" of Tenant is an entity which is controlled by, controls, or is under common control with, Tenant. "**Control**," as used in this Fourth Amendment, shall mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity. Landlord and Tenant hereby acknowledge that, as of the date of this Fourth Amendment, for the period commencing on February 1, 2009 and ending on June 31, 2009, Tenant has previously paid to Landlord the monthly installments of Basic Monthly Rent attributable to the Premises less the applicable monthly deferment amounts set forth in the schedule above. For purposes of this Fourth Amendment, Tenant shall be in " **Monetary Default**" of the Lease, as hereby amended, if Tenant fails to pay to Landlord any regularly scheduled payment when due under the Lease, as hereby amended, and such failure continues for five (5) business days after Tenant's receipt of written notice from Landlord that the same is past due.

4. **Landlord's Return on Deferred Basic Rent**. In consideration of Landlord's execution of this Fourth Amendment and agreement to defer payments of rent under the Lease, as hereby amended, Tenant shall pay to Landlord a return on the accrued and outstanding Deferred Basic Rent at a rate of ten percent (10%) per annum (the "**Deferred Basic Rent Return**"), which Deferred Basic Rent Return shall (i) accrue monthly on a cumulative, compounded basis over the Deferment Period and the "Repayment Period," as that term is defined in Section 5 below, and (ii) be paid by Tenant, along with Tenant's payment of the Deferred Basic Rent, in accordance with the terms of Section 5, below. As used herein, the term "**The Balance**" shall mean the sum of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return at the time identified.

5. **Repayment of Deferred Basic Rent and Deferred Basic Rent Return** . The accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent

Return shall be paid in full to Landlord in accordance with the terms of this Section 5. Not later than April 1, 2010, Tenant shall pay to Landlord a lump sum of Ninety-Three Thousand Three Hundred Thirty-Eight and 87/100 Dollars ($93,338.87) (*i.e.*, twenty percent (20%) of The Balance as of April 1, 2010) (the "**Initial Lump Sum Payment**"). Thereafter, commencing on or prior to the first (1st) day of each calendar month occurring during the period commencing on April 1, 2010 and ending on September 30, 2011, (the "**Repayment Period**"), along with and in addition to all other regularly scheduled Rent otherwise due and payable by Tenant for the Premises under the terms of the Lease, as amended hereby, Tenant shall pay to Landlord the remainder of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return (*i.e.*, the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return less the Initial Lump Sum Payment) as follows:

Payment Due Date	Applicable Repayment Amount
On or prior to April 1, 2010	$22,237.33
On or prior to May 1, 2010	$22,237.33
On or prior to June 1, 2010	$22,237.33
On or prior to July 1, 2010	$22,237.33
On or prior to August 1, 2010	$22,237.33
On or prior to September 1, 2010	$22,237.33
On or prior to October 1, 2010	$22,237.33
On or prior to November 1, 2010	$22,237.33
On or prior to December 1, 2010	$22,237.33
On or prior to January 1, 2011	$22,237.33
On or prior to February 1, 2011	$22,237.33
On or prior to March 1, 2011	$22,237.33
On or prior to April 1, 2011	$22,237.33
On or prior to May 1, 2011	$22,237.33
On or prior to June 1, 2011	$22,237.33
On or prior to July 1, 2011	$22,237.33
On or prior to August 1, 2011	$22,237.33
On or prior to September 1, 2011	$22,237.33

Further, notwithstanding any contrary provision of the Lease, as amended, the Deferred Basic Rent and the Deferred Basic Rent Return payable hereunder shall constitute a part of the "Rent" (as that term is defined in the Original Lease) payable by Tenant in connection with the Premises.

6. **Reimbursement of Landlord's Costs**. Landlord and Tenant hereby acknowledge and agree that Tenant's obligation to pay or reimburse Landlord for any fees or costs that might otherwise come due to Landlord in connection with this Fourth Amendment, or the matters referenced herein, are addressed in and shall be pursuant to Section 6 of the TPSC Second Amendment.

7. **Acceleration of Deferred Basic Rent and Deferred Basic Rent Return for Tenant Default, Assignment of Lease or Bankruptcy** . Notwithstanding any contrary provision of the Lease, as amended hereby, Landlord shall have the right, at its option, to accelerate the repayment of The Balance accrued and unpaid as of such date and to make the same immediately payable in full by Tenant, upon (i) any Monetary Default (as defined in Section 3 above) by Tenant; (ii) any assignment or attempted assignment of the Lease, as amended hereby, by the Original Tenant to any third party (other than to an Affiliate Assignee); (iii) a general assignment by Tenant for the benefit of creditors, or the taking of any corporate action in furtherance of bankruptcy or dissolution (whether or not there exists any proceeding under an insolvency or bankruptcy law), or the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law; or (iv) the sale of Tenant's business through a merger or sale of stock which, in either case, results in a more than fifty percent (50%) change in control of Tenant's stock, or a sale of all of the assets of Tenant's business during the Deferment Period or the Repayment Period or prior to the full repayment of the Deferred Basic Rent and Deferred Basic Rent Return; provided, however, the issuance of equity securities of Tenant or securities exercisable or convertible for equity securities of Tenant for financing purposes that results in a change of Control of Tenant shall not be prohibited by the Lease, as hereby amended, or result in such an acceleration as otherwise set forth in this Section 7. In accordance with the foregoing, if any acceleration occurs prior to the end of the Deferment Period, then there shall be no further deferment of Basic Monthly Rent and, in addition to the repayment described in this Section 7, Tenant shall immediately become obligated to pay to Landlord the full amount of Tenant's regularly scheduled payments and amounts of Basic Monthly Rent thereafter coming due, as and when the same come due, in accordance with the terms of the Lease (including, without limitation, Section 2 of the Third Amendment).

8. **Basic Monthly Rent During Remainder of Term**. Effective as of April 1, 2010, and continuing throughout the remainder of the Lease Term (*i.e.*, through and including July 31, 2015 or any earlier termination of the Lease, as amended), in addition to the payment of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return, as applicable, as and when the same come due pursuant to the provisions of this Fourth Amendment, Tenant shall pay to Landlord the full amount of Tenant's regularly scheduled

payments and amounts of Basic Monthly Rent, as and when the same come due, in accordance with the terms of the Lease (including, without limitation, Section 2 of the Third Amendment).

9. **Additional Rent**. Notwithstanding the deferment of Basic Monthly Rent set forth in this Fourth Amendment, during the Deferment Period and throughout the remainder of the Lease Term, Tenant shall remain obligated to pay to Landlord the full amount of all other monetary obligations of Tenant to Landlord under the terms of the Lease (including, without limitation, all costs of real property taxes, utilities, insurance premiums, and Project Operating Expenses as and to the extent set forth in the Lease).

10. **Outside Area Rent**. Notwithstanding the deferment of Basic Monthly Rent set forth in this Fourth Amendment, Landlord and Tenant hereby acknowledge that, in accordance with the terms of Section 8 of the First Amendment, during the Deferment Period and throughout the remainder of the Lease Term, Tenant shall continue to be obligated to pay to Landlord the Basic Monthly Rent applicable to the Outside Area (*i.e.*, $243.75 per month).

11. **Warrants for Purchase of Stock**. The parties hereby agree and acknowledge that in consideration of Landlord's execution of this Fourth Amendment and granting Tenant the concessions set forth herein and as a condition precedent to the effectiveness of this Fourth Amendment, Tenant shall, concurrent with the execution and delivery of this Fourth Amendment, execute and deliver to Landlord the two (2) warrant agreements attached hereto as **Exhibit A**.

12. **Deletions and Modifications**. Landlord and Tenant hereby agree and acknowledge that, effective as of the date of this Fourth Amendment, the following deletions and/or modifications are made to the Lease.

12.1 The first (1st) sentence of Section 5.4.4 of the Original Lease is hereby deleted in its entirety and is of no further force or effect.

12.2 Any and all expansion, first offer, and refusal options contained in Section 2.7 and Section 2.8 of the Original Lease are of no further force or effect.

12.3 Landlord and Tenant hereby acknowledge that pursuant to the terms of Section 7 of the Third Amendment, Tenant has an option to terminate the Lease, as amended, effective at any time after July 1, 2011. Notwithstanding the foregoing or any contrary provision of the Lease or this Fourth Amendment, Landlord and Tenant hereby agree that as consideration for and as a condition precedent to such early termination, in addition to the Termination Fee set forth in Section 7(b) of the Third Amendment and concurrently with Tenant's delivery of the Termination Notice to Landlord, Tenant shall deliver to Landlord the entire amount of any Deferred Basic Rent and any Deferred Basic Rent Return then accrued and outstanding at the time of Tenant's delivery of the Termination Notice to Landlord.

13. **Remedies**. For the purpose of clarifying Section 11.4.2 of the Original Lease, Landlord and Tenant hereby acknowledge and agree that the remedy provided to Landlord thereunder is intended to be, and shall be deemed to provide to Landlord, the remedy described in California Civil Code Section 1951.4.

14. **No Consequential Damages**. Notwithstanding anything to the contrary contained in the Lease, as hereby amended, nothing in the Lease, as hereby amended, shall impose any obligations on Tenant or Landlord to be responsible or liable for, and each hereby releases the other from all liability for, consequential damages, other than those consequential damages, if any, as may be incurred by Landlord in connection with a holdover of the Premises by Tenant for any period in excess of three (3) weeks after the expiration or earlier termination of the Lease Term.

15. **Notices**. Notwithstanding any contrary provision contained in the Lease, as of the date of this Fourth Amendment, any notices to Landlord must be delivered to the following addresses (and otherwise in accordance with the terms of Section 15.4 of the Original Lease) or to such other places as Landlord may from time to time designate in a notice to Tenant:

HCP, Inc.
3760 Kilroy Airport Center, Suite 300
Long Beach, California 90806
Attention: Legal Department

and

HCP, Inc.
444 North Michigan Avenue, Suite 3230
Chicago, Illinois 60611
Attention: Randall W Rohner, Senior Vice President

and

Allen Matkins Leek Gamble Mallory & Natsis LLP
1901 Avenue of the Stars, Suite 1800
Los Angeles, California 90067
Attention: Anton N. Natsis, Esq.

16. **No Broker**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Fourth Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Fourth Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent occurring by, through, or under the indemnifying party. The terms of this Section 16 shall survive the expiration or earlier termination of the term of the Lease, as hereby amended.

17. **No Default; Tolling of Cure Period**. To Tenant's knowledge, as of the date of this Fourth Amendment, Landlord is not in default (nor does a situation exist which, with the passage of time, the giving of notice, or both, would constitute a default) under any of the terms or provisions of the Lease. So long as the "Condition Precedent," as that term is defined in Section 20 below, is satisfied, (i) to Landlord's knowledge, as of the date of this Fourth

Amendment, Tenant is not in default (nor does a situation exist which, with the passage of time, the giving of notice, or both, would constitute a default) and there are no Monetary Defaults under any of the terms or provisions of the Lease, as hereby amended, and (ii) Tenant's cure period with respect to the imposition of any liens and encumbrances shall be tolled.

18. **Conflict; No Further Modification**. In the event of any conflict between the Lease and this Fourth Amendment, the terms of this Fourth Amendment shall prevail. Except as specifically set forth in this Fourth Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

19. **Counterparts/Facsimile or .PDF Signatures**. This Fourth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument. Additionally, the parties hereto acknowledge and agree that signatures transmitted via facsimile or .pdf shall be considered fully binding under this Fourth Amendment.

20. **Effectiveness of this Fourth Amendment**. Landlord and Tenant hereby acknowledge and agree that, notwithstanding the full execution and delivery of this Fourth Amendment by Landlord and Tenant, this Fourth Amendment is expressly conditioned upon the occurrence of the "Effective Date," as that term is defined in that certain Settlement Agreement dated June 17, 2009 by and between Tenant and DPR Construction, Inc. (" **DPR**") as amended by that certain Amendment dated June 26, 2009 (collectively, the "**Settlement Agreement**") (of which Landlord is a third party beneficiary) and the full payment by Tenant to DPR of the "Aggregate Payment Amount" (*i.e.*, $2,000,000), as that term is defined in, and pursuant to the terms of, the Settlement Agreement (the "**Condition Precedent**"). To the extent that the Condition Precedent is not satisfied on or before September 1, 2009, then Landlord may terminate this Fourth Amendment upon delivery of written notice thereof to Tenant, in which event this Fourth Amendment shall automatically terminate and the Lease shall continue in full force and effect as if unmodified by this Fourth Amendment. Landlord and Tenant each represent and warrant to the other that the execution and performance of this Fourth Amendment by such party has been authorized and approved by all requisite corporate, limited liability company, partnership and third party action.

[Continued on the following page.]

IN WITNESS WHEREOF, this Fourth Amendment has been executed as of the day and year first above written.

"LANDLORD"

HCP TPSP, LLC,
a Delaware limited liability company

By: /s/ R W Rohmer
Name: Randall W Rohmer
Its: Senior V.P.
By:
Name:
Its:

"TENANT"

PACIRA PHARMACEUTICALS, INC.,
a California corporation

By: /s/ James Scibetta
Name:
Its:
By:
Name:
Its:

EXHIBIT A

FORM OF WARRANTS

[ATTACHED]

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

WARRANT TO PURCHASE SERIES A PREFERRED STOCK

Company: Pacira, Inc., a Delaware corporation (the "**Company**")
Shares: 77,616
Class of Stock: Series A Preferred Stock
Exercise Price: $1.25 per share (the "**Exercise Price**")
Issue Date: July 2, 2009
Term: See Section 5.1

THIS WARRANT CERTIFIES THAT, for value received as consideration pursuant to that certain Second Amendment to Industrial Real Estate Lease, dated July 2, 2009, by and between LASDK Limited Partnership and Pacira Pharmaceuticals, Inc. and for other good and valuable consideration the sufficiency of which is hereby acknowledged, National Electrical Benefit Fund (" **Holder**") is entitled to purchase up to Seventy Seven Thousand Six Hundred Sixteen (77,616) fully paid and nonassessable shares of the Company's Series A Preferred Stock (the " **Shares**"), at the Exercise Price, all as set forth herein, subject to the provisions and upon the terms and conditions set forth in this Warrant. All references to "common stock" herein shall mean the common stock of the Company.

ARTICLE 1. EXERCISE.

1.1 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Appendix 1 hereto to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Article 1.2. Holder shall also deliver to the Company a check or wire transfer (to an account designated by the Company), for the aggregate Exercise Price for the Shares being purchased.

1.2 Conversion Right. In lieu of exercising this Warrant as specified in Article 1.1, Holder may from time to time convert this Warrant, in whole or in part, into a number of Shares determined by dividing (a) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this Warrant minus the aggregate Exercise Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Article 1.3.

1.3 Fair Market Value. If the common stock is traded in a public market and the Shares are common stock, the fair market value of each Share shall be the closing price of a share of common stock of the Company reported for the business day immediately before Holder delivers its Notice of Exercise to the Company (or in the instance where the Warrant is exercised immediately prior to the effectiveness of the Company's initial public offering, the "price to public" per share price specified in the final prospectus relating to such offering). If the common stock is not traded in a public market or the Shares are not common stock, then the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises or converts this Warrant and, if applicable, the Company receives payment of the aggregate Exercise Price, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, a new Warrant representing the Shares not so acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

ARTICLE 2. ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Combinations, Etc. If the Company declares or pays a dividend on the Shares payable in common stock, or other securities, then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend occurred. If the Company subdivides the Shares by reclassification or otherwise into a greater number of shares or takes any other action which increases the amount of stock into which the Shares are convertible, the number of shares purchasable hereunder shall be proportionately increased and the Exercise Price shall be proportionately decreased. If the outstanding shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Exercise Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange or Substitution, Etc. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant, Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. The Company or its successor shall promptly issue to Holder an amendment to this Warrant setting forth the number and kind of such new securities or other property issuable upon exercise or conversion of this Warrant as a result of such reclassification, exchange, substitution or other event that results in a change of the number and/or class of securities issuable upon exercise or conversion of this Warrant.

2.3 Merger or Consolidation. Upon any capital reorganization of the Company's capital stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 2) or a merger or consolidation of the Company with or into another corporation, then as a part of such reorganization, merger or consolidation, provision shall be made so that the Holder shall thereafter be entitled to receive upon the exercise or conversion of this Warrant, the number and kind of securities and property of the Company, or of the successor corporation resulting from such reorganization, merger or consolidation, to which that Holder would have received for the Shares if this Warrant had been exercised immediately before such reorganization, merger or consolidation.

2.4 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional share interest by paying Holder an amount in cash computed by multiplying the fractional interest by the fair market value of a full Share.

2.5 Certificate as to Adjustments. Upon each adjustment of the Exercise Price, the Company shall promptly notify Holder in writing, and, at the Company's expense, promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer or other officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall furnish Holder a certificate setting forth the Exercise Price in effect upon the date thereof and the series of adjustments leading to such Exercise Price.

ARTICLE 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Notice of Certain Events. If the Company proposes at any time (a) to declare any dividend or distribution upon any of its stock, whether in cash, property, stock, or other securities and

whether or not a regular cash dividend; (b) to effect any reclassification or recapitalization of any of its stock; or (c) to merge or consolidate with or into any other corporation, or sell, lease, license, or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, then, in connection with each such event, the Company shall give Holder: (1) at least twenty (20) days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of common stock will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) above; and (2) in the case of the matters referred to in (b) and (c) above at least twenty (20) days prior written notice of the date when the same will take place (and specifying the date on which the holders of common stock will be entitled to exchange their common stock for securities or other property deliverable upon the occurrence of such event).

3.2 No Shareholder Rights or Liabilities. Except as provided in this Warrant, the Holder will not have any rights as a stockholder of the Company until the exercise of this Warrant. Absent an affirmative action by the Holder to purchase the Shares, the Holder shall not have any liability as a stockholder of the Company.

3.3 Closing of Books. The Company will at no time close its transfer books against the transfer of this Warrant or of any Shares issued or issuable upon the exercise of this Warrant in any manner which interferes with the timely exercise of this Warrant.

3.4 Corporate Power. The Company has all the requisite corporate power and authority to issue this Warrant and to carry out and perform its obligations hereunder.

3.5 Authorization. All corporate action on the part of the Company, its directors and stockholders necessary for the authorization, execution, delivery and performance by the Company of this Warrant has been taken. This Warrant is a valid and binding obligation of the Company, enforceable in accordance with its terms.

3.6 Offering. Subject in part to the truth and accuracy of Holder's representations set forth in Section 4 hereof, the offer, issuance and sale of this Warrant is, and the issuance of Shares upon exercise or conversion of this Warrant and the issuance of the Company's common stock upon conversion of the Shares will be exempt from the registration requirements of the Securities Act, and are exempt from the qualification requirements of any applicable state securities laws; and neither the Company nor anyone acting on its behalf will take any action hereafter that would cause the loss of such exemptions.

3.7 Stock Issuance. Upon the exercise or conversion of this Warrant, the Company will use its best efforts to cause stock certificates representing the Shares purchased pursuant to the exercise or conversion thereof to be issued in the names of Holder, its nominees or assignees, as appropriate at the time of such exercise or conversion. Upon conversion of the Shares into the Company's common stock, the Company will issue the common stock in the names of Holder, its nominees or assignees, as appropriate.

3.8 Certificates and Bylaws. The Company has provided Holder with true and complete copies of the Company's Certificate of Incorporation, Bylaws and each Certificate of Designation or other charter document setting forth any rights, preferences and privileges of Company's capital stock, each as amended and in effect on the date of issuance of this Warrant.

3.9 Series A Preferred Stock. The Shares issuable upon the exercise or conversion of this Warrant will represent less than ten (10%) percent of the Company's authorized and issued Series A Preferred Stock.

ARTICLE 4. REPRESENTATIONS OF THE HOLDER. The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by the Holder will be acquired for investment for the Holder's account, not as a

nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that the Holder has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. The Holder has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. The Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to the Holder or to which the Holder has access.

4.3 Investment Experience. The Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. The Holder has experience as an investor in securities of companies in the development stage and acknowledges that the Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that the Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables the Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. The Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. The Holder understands that this Warrant and the Shares issuable upon exercise or conversion hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. The Holder understands that this Warrant and the Shares issued upon any exercise or conversion hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available.

ARTICLE 5. MISCELLANEOUS.

5.1 Term. This Warrant is exercisable in whole or in part at any time and from time to time on or before the earlier of (i) 5:00 pm Pacific Time on the seventh anniversary of the Issue Date or (ii) the fifth anniversary of the consummation of the Company's initial public offering.

5.2 Legends. This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

5.3 "Market Stand off" Agreement. Holder hereby agrees that it will not, without the prior written consent of the Company, during the period commencing on the date of the final prospectus relating to the initial public offering of the capital stock of the Company and ending on the date specified by the Company (such period not to exceed one hundred eighty (180) days) (i) lend; offer; pledge; sell;

contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable, directly or indirectly, for common stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of common stock or other securities, in cash, or otherwise.

5.4 Transfers. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). Subject to the foregoing, this Warrant and the Shares issuable upon exercise of this Warrant shall be freely transferable.

5.5 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first- class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may (or on the first business day after transmission by facsimile) be, in writing by the Company or such Holder from time to time. Effective upon receipt of the fully executed Warrant, all notices to the Holder shall be addressed as set forth on the signature page hereto until the Company receives notice of a change of address in connection with a transfer or otherwise. Notice to the Company shall be addressed as set forth on the signature page hereto until the Holder receives notice of a change in address.

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Counterparts. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement.

5.8 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

[Remainder of page intentionally left blank; signature page follows]

“COMPANY”

PACIRA, INC.

By:

Name:
(Print)

Title:

Address:

Pacira, Inc.
10450 Science Center Drive
San Diego, CA 92121

“HOLDER”

National Electrical Benefit Fund

By:

Name:
(Print)

Title:

Address:

c/o
HCP, Inc.
3760 Kilroy Airport Way, Suite 300
Long Beach, CA 90806-2473
Attention: Legal Department

APPENDIX 1

NOTICE OF EXERCISE

1. Holder elects to purchase of the Shares pursuant to the terms of the attached Warrant, and tenders payment of the purchase price of the shares in full.

[or]

1. Holder elects to convert the attached Warrant into Shares in the manner specified in the Warrant. This conversion is exercised for of the Shares covered by the Warrant.

[Strike above paragraph that does not apply.]

2. Please issue a certificate or certificates representing the shares in the name specified below:

_____

(Holder's Name)

_____

_____

(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Article 4 of the Warrant as the date hereof.

HOLDER:

_____

By: _____

Name: _____

Title: _____

(Date): _____

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE **"ACT"**), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

WARRANT TO PURCHASE SERIES A PREFERRED STOCK

Company: Pacira, Inc., a Delaware corporation (the "**Company**")
Shares: 172,384
Class of Stock: Series A Preferred Stock
Exercise Price: $1.25 per share (the "**Exercise Price**")
Issue Date: July 2, 2009
Term: See Section 5.1

THIS WARRANT CERTIFIES THAT, for value received as consideration pursuant to that certain Second Amendment to Industrial Real Estate Lease, dated July 2, 2009, by and between LASDK Limited Partnership and Pacira Pharmaceuticals, Inc. (" **Pacira**") and that certain Fourth Amendment to Industrial Real Estate Triple Net Lease, dated July 2, 2009, by and between HCP TPSP LLC and Pacira and for other good and valuable consideration the sufficiency of which is hereby acknowledged, HCP, Inc. ("**Holder**") is entitled to purchase up to One Hundred Seventy Two Thousand Three Hundred Eighty Four (172,384) fully paid and nonassessable shares of the Company's Series A Preferred Stock (the " **Shares**"), at the Exercise Price, all as set forth herein, subject to the provisions and upon the terms and conditions set forth in this Warrant. All references to "common stock" herein shall mean the common stock of the Company.

ARTICLE 1. EXERCISE.

1.1 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Appendix 1 hereto to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Article 1.2, Holder shall also deliver to the Company a check or wire transfer (to an account designated by the Company), for the aggregate Exercise Price for the Shares being purchased.

1.2 Conversion Right. In lieu of exercising this Warrant as specified in Article 1.1,Holder may from time to time convert this Warrant, in whole or in part, into a number of Shares determined by dividing (a) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this Warrant minus the aggregate Exercise Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Article 1.3.

1.3 Fair Market Value. If the common stock is traded in a public market and the Shares are common stock, the fair market value of each Share shall be the closing price of a share of common stock of the Company reported for the business day immediately before Holder delivers its Notice of Exercise to the Company (or in the instance where the Warrant is exercised immediately prior to the effectiveness of the Company's initial public offering, the "price to public" per share price specified in the final prospectus relating to such offering). If the common stock is not traded in a public market or the Shares are not common stock, then the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises or converts this Warrant and, if applicable, the Company receives payment of the aggregate Exercise Price, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, a new Warrant representing the Shares not so acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

ARTICLE 2. ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Combinations, Etc. If the Company declares or pays a dividend on the Shares payable in common stock, or other securities, then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend occurred. If the Company subdivides the Shares by reclassification or otherwise into a greater number of shares or takes any other action which increases the amount of stock into which the Shares are convertible, the number of shares purchasable hereunder shall be proportionately increased and the Exercise Price shall be proportionately decreased. If the outstanding shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Exercise Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange or Substitution, Etc. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant, Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. The Company or its successor shall promptly issue to Holder an amendment to this Warrant setting forth the number and kind of such new securities or other property issuable upon exercise or conversion of this Warrant as a result of such reclassification, exchange, substitution or other event that results in a change of the number and/or class of securities issuable upon exercise or conversion of this Warrant.

2.3 Merger or Consolidation. Upon any capital reorganization of the Company's capital stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 2) or a merger or consolidation of the Company with or into another corporation, then as a part of such reorganization, merger or consolidation, provision shall be made so that the Holder shall thereafter be entitled to receive upon the exercise or conversion of this Warrant, the number and kind of securities and property of the Company, or of the successor corporation resulting from such reorganization, merger or consolidation, to which that Holder would have received for the Shares if this Warrant had been exercised immediately before such reorganization, merger or consolidation.

2.4 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional share interest by paying Holder an amount in cash computed by multiplying the fractional interest by the fair market value of a full Share.

2.5 Certificate as to Adjustments. Upon each adjustment of the Exercise Price, the Company shall promptly notify Holder in writing, and, at the Company's expense, promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer or other officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall furnish Holder a certificate setting forth the Exercise Price in effect upon the date thereof and the series of adjustments leading to such Exercise Price.

ARTICLE 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Notice of Certain Events. If the Company proposes at any time (a) to declare any dividend or distribution upon any of its stock, whether in cash, property, stock, or other securities and

whether or not a regular cash dividend; (b) to effect any reclassification or recapitalization of any of its stock; or (c) to merge or consolidate with or into any other corporation, or sell, lease, license, or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, then, in connection with each such event, the Company shall give Holder: (1) at least twenty (20) days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of common stock will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) above; and (2) in the case of the matters referred to in (b) and (c) above at least twenty (20) days prior written notice of the date when the same will take place (and specifying the date on which the holders of common stock will be entitled to exchange their common stock for securities or other property deliverable upon the occurrence of such event).

3.2 No Shareholder Rights or Liabilities. Except as provided in this Warrant, the Holder will not have any rights as a stockholder of the Company until the exercise of this Warrant. Absent an affirmative action by the Holder to purchase the Shares, the Holder shall not have any liability as a stockholder of the Company.

3.3 Closing of Books. The Company will at no time close its transfer books against the transfer of this Warrant or of any Shares issued or issuable upon the exercise of this Warrant in any manner which interferes with the timely exercise of this Warrant.

3.4 Corporate Power. The Company has all the requisite corporate power and authority to issue this Warrant and to carry out and perform its obligations hereunder.

3.5 Authorization. All corporate action on the part of the Company, its directors and stockholders necessary for the authorization, execution, delivery and performance by the Company of this Warrant has been taken. This Warrant is a valid and binding obligation of the Company, enforceable in accordance with its terms.

3.6 Offering. Subject in part to the truth and accuracy of Holder's representations set forth in Section 4 hereof, the offer, issuance and sale of this Warrant is, and the issuance of Shares upon exercise or conversion of this Warrant and the issuance of the Company's common stock upon conversion of the Shares will be exempt from the registration requirements of the Securities Act, and are exempt from the qualification requirements of any applicable state securities laws; and neither the Company nor anyone acting on its behalf will take any action hereafter that would cause the loss of such exemptions.

3.7 Stock Issuance. Upon the exercise or conversion of this Warrant, the Company will use its best efforts to cause stock certificates representing the Shares purchased pursuant to the exercise or conversion thereof to be issued in the names of Holder, its nominees or assignees, as appropriate at the time of such exercise or conversion. Upon conversion of the Shares into the Company's common stock, the Company will issue the common stock in the names of Holder, its nominees or assignees, as appropriate.

3.8 Certificates and Bylaws. The Company has provided Holder with true and complete copies of the Company's Certificate of Incorporation, Bylaws and each Certificate of Designation or other charter document setting forth any rights, preferences and privileges of Company's capital stock, each as amended and in effect on the date of issuance of this Warrant.

3.9 Series A Preferred Stock. The Shares issuable upon the exercise or conversion of this Warrant will represent less than ten (10%) percent of the Company's authorized and issued Series A Preferred Stock.

ARTICLE 4. REPRESENTATIONS OF THE HOLDER. The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by the Holder will be acquired for investment for the Holder's account, not as a

nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that the Holder has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. The Holder has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. The Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to the Holder or to which the Holder has access.

4.3 Investment Experience. The Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. The Holder has experience as an investor in securities of companies in the development stage and acknowledges that the Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that the Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables the Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. The Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. The Holder understands that this Warrant and the Shares issuable upon exercise or conversion hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. The Holder understands that this Warrant and the Shares issued upon any exercise or conversion hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available.

ARTICLE 5. MISCELLANEOUS.

5.1 Term. This Warrant is exercisable in whole or in part at any time and from time to time on or before the earlier of (i) 5:00 pm Pacific Time on the seventh anniversary of the Issue Date or (ii) the fifth anniversary of the consummation of the Company's initial public offering.

5.2 Legends. This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

5.3 "Market Stand off" Agreement. Holder hereby agrees that it will not, without the prior written consent of the Company, during the period commencing on the date of the final prospectus relating to the initial public offering of the capital stock of the Company and ending on the date specified by the Company (such period not to exceed one hundred eighty (180) days) (i) lend; offer; pledge; sell;

contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable, directly or indirectly, for common stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of common stock or other securities, in cash, or otherwise.

5.4 Transfers. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). Subject to the foregoing, this Warrant and the Shares issuable upon exercise of this Warrant shall be freely transferable.

5.5 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may (or on the first business day after transmission by facsimile) be, in writing by the Company or such Holder from time to time. Effective upon receipt of the fully executed Warrant, all notices to the Holder shall be addressed as set forth on the signature page hereto until the Company receives notice of a change of address in connection with a transfer or otherwise. Notice to the Company shall be addressed as set forth on the signature page hereto until the Holder receives notice of a change in address.

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Counterparts. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement.

5.8 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

[Remainder of page intentionally left blank; signature page follows]

“COMPANY”

PACIRA, INC

By: _____

Name: _____
(Print)

Title: _____

Address:

Pacira, Inc.
10450 Science Center Drive
San Diego, CA 92121

“HOLDER”

HCP, Inc.

By: _____

Name: _____
(Print)

Title: _____

Address:

HCP, Inc.
3760 Kilroy Airport Way, Suite 300
Long Beach, CA 90806-2473
Attention: Legal Department

APPENDIX 1

NOTICE OF EXERCISE

1. Holder elects to purchase of the Shares pursuant to the terms of the attached Warrant, and tenders payment of the purchase price of the shares in full.

   [or]

1. Holder elects to convert the attached Warrant into Shares in the manner specified in the Warrant. This conversion is exercised for of the Shares covered by the Warrant.

[Strike above paragraph that does not apply.]

2. Please issue a certificate or certificates representing the shares in the name specified below:

_____

(Holder's Name)

_____

_____

(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Article 4 of the Warrant as the date hereof.

HOLDER:

_____

By: _____

Name: _____

Title: _____

(Date): _____

Exhibit 10.20

TORREY PINES SCIENCE CENTER

Industrial Real Estate Lease

BETWEEN

LANKFORD & ASSOCIATES, INC., A
COLORADO CORPORATION

as LANDLORD

and

DEPOTECH CORPORATION, A
CALIFORNIA CORPORATION

as TENANT

December 8, 1994

TORREY PINES SCIENCE CENTER
Industrial Real Estate Lease

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TORREY PINES SCIENCE CENTER

Industrial Real Estate Lease

I

BASIC TERMS

This Article One contains the Basic Terms of this lease agreement between the Landlord and Tenant named below ("Lease"). Other Articles, Sections and Subsections of the Lease referred to in this Article One explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

1.1 Date of Lease. This Lease is entered into as of December 8, 1994 ("Effective Date"), by and between Landlord and Tenant named below.

1.2 Landlord. LANKFORD & ASSOCIATES, INC., a Colorado corporation.

Address of Landlord: 4250 Executive Square
Suite 650
La Jolla,
California 92037.

1.3 Tenant. DEPOTECH CORPORATION, a California corporation.

Address of Tenant: 11025 North Torrey Pines Road
Suite 100
La Jolla, California 92037.

1.4 Real Property. Landlord has the option to purchase Lots 18, 19 and 20 of Subdivision Map No. 12845 filed in the Office of the County Recorder of San Diego County on July 23, 1991, from Chevron Land and Development Company ("Chevron") pursuant to that certain letter of intent from Iliff Thorn & Company to Robert Lankford ("Letter of Intent") dated May 16, 1994, countersigned by Landlord on May 23, 1994 and by Chevron on June 10, 1994. Chevron and Landlord have executed that certain Purchase and Sale Agreement and Escrow Instructions ("Contract") dated November 23, 1994 ("Contract Date") whereby Landlord has the right to purchase Lot 19 of Subdivision Map No. 12845 filed in the Office of the County Recorder of San Diego County on July 23, 1991 (the "Real Property"). The Real Property is part of a planned science research, business and industrial complex known as Torrey Pines Science Center 2 ("Project"). Landlord shall purchase the Real Property and close escrow thereon on or before January 15, 1995 ("Acquisition Date").

1.4.1 Lot Line Adjustment. In order for the Real Property to be configured as desired by Landlord and Tenant, a Lot Line Adjustment ("Lot Line Adjustment") adjusting the lot lines of the Real Property was processed by Landlord and approved by the City of San Diego as evidenced by that certain Parcel Map No. 17448 (the "Parcel Map") , recorded among the Real property Records of San Diego County on November 17, 1994. Exhibit "A" attached hereto and incorporated herein is a copy of the Parcel Map, showing the Real Property as Parcel 3 thereon.

1.4.2 Termination of Lease.

1.4.2.1 This Lease shall be terminable by Tenant, upon notice to Landlord, within ten (10) days after the Acquisition Date if Landlord does not close the escrow for the purchase of the Real Property by the Acquisition Date pursuant to the Contract, in which case this Lease will be of no further force or effect.

1.4.2.2 This Lease shall be terminable by Landlord, upon notice to Tenant, within ten (10) days after the Acquisition Date if Landlord does not close the escrow for the purchase of the Real Property by the Acquisition Date pursuant to the Contract due solely to Chevron's non-performance under the Contract, in which case this Lease will be of no further force or effect.

1.4.2.3 Tenant may (but shall not be obligated to) terminate this Lease if Landlord does not obtain a permit to construct the foundation of the building to be located on the Real Property (the "Foundation Permit") from the City of San Diego on or before January 15, 1995 ("Permit Date"). Notwithstanding the foregoing, if Tenant has not adhered to the time schedule set forth in the Work Letter Agreement attached hereto and made a part hereof as Exhibit "C" ("Work Letter") for approval of the Preliminary Shell Plans and Final Drawings (as defined in the Work Letter) , then the Permit Date will be extended one (1) day for each day of delay in Tenant's approval of such Plans and/or Drawings.

1.4.2.4 Tenant may (but shall not be obligated to) terminate this Lease if Landlord does not deliver to Tenant, on or before December 15, 1994, evidence reasonably satisfactory to Tenant that Landlord has obtained an irrevocable commitment for construction financing (the "Construction Financing") from an institutional lender, for construction of the Building. Tenant agrees to cooperate with Landlord in obtaining the Construction Financing and making any reasonable changes to this Lease required by the construction lender for the Construction Financing, provided such changes do not materially alter Landlord's and Tenant's obligations hereunder and do not materially reduce Tenant's benefits hereunder. Tenant agrees that Landlord shall be entitled

to fulfill its obligations under this Section 1.4.2.4 by delivering to Tenant, on or before December 15, 1994, a letter from Slough Parks Incorporated or SDK Incorporated (or one of their affiliated entities), which states that such entity has committed to provide or has obtained an irrevocable third-party commitment to provide the Construction Financing.

1.4.2.5 Tenant may (but shall not be obligated to) terminate this Lease if the entire Premises and all improvements to be constructed thereon in accordance with the terms of this Lease are not substantially complete by September 1, 1996.

1.4.2.6 If either party elects to terminate this Lease as provided in this Section 1.4.2.6 this Lease will be of no further force or effect. Notwithstanding any such termination, the obligations under this Section 1.4.2.6 and Sections 5.4 and 7.2 below shall survive the termination of this Lease. If the Lease is terminated pursuant to Sections 1.4.2.1, 1.4.2.2, 1.4.2.3, or 1.4.2.4, Landlord shall reimburse Tenant for all direct, out of pocket costs incurred by Tenant in connection with this Lease prior to the termination, which in no event shall exceed Eighty Thousand and No/100 Dollars ($80,000), for the period of time before December 15, 1994, and shall not exceed One Hundred Fifty-five Thousand and No/100 Dollars ($155,000) if termination occurs thereafter. Notwithstanding the foregoing, if the termination occurs because either (i) Landlord does not close escrow for the purchase of the Real Property by the Acquisition Date due solely to Chevron's nonperformance under the Contract; or (ii) Landlord is unable to obtain the Foundation Permit by the Permit Date because Tenant's intended use of the Premises is deemed by the City of San Diego (or any other government agency having or asserting jurisdiction over the permitting process) to be a non-conforming use, then Landlord shall not be obligated to reimburse Tenant for all costs incurred by Tenant in connection with this Lease.

1.5 Premises. As used herein, the term "Premises" shall mean the Real Property, all easements, rights-of-way, rights, privileges, benefits and appurtenances belonging to the Real Property, and all improvements located on the Real Property, including, without limitation, a building to be constructed consisting of approximately eighty-two thousand three hundred ninety (82,390) gross square feet (the "Building") and related parking facilities and peripheral structures as shown on the preliminary plans and specifications for the Building Shell and Landlord's Work (as such terms are defined in the Work Letter attached hereto as Exhibit "C") prepared by Davis Architects and dated November 21, 1994, which have been mutually approved by the parties (the "Preliminary Shell Plans"), a copy of which shall be attached hereto as Exhibit "D" and incorporated herein. The general space plan, drawings and specifications for the Tenant Improvements (as such term is defined

in the Work Letter) prepared by Ehrlich Rominger dated November 23, 1994, (the "Preliminary Plans") have also been mutually approved by the parties. The final plans for the Building Shell and Landlord's Work, and for the Tenant Improvements (for both Phase I and Phase II) shall be agreed to by the parties in accordance with the Work Letter.

1.5.1 Phases. The Premises will be constructed in two phases, with the first phase ("Phase I") to include the Building Shell, Landlord's Improvements and the Tenant Improvements for all of the office space, research and development space, manufacturing support space and all other areas of the Building which must be constructed in order for Tenant to occupy the foregoing, which Phase shall consist of approximately fifty thousand (50,000) gross square feet located primarily on the second floor of the Building (but with a portion located on the first floor of the Building). The second phase ("Phase II") shall include all the remaining Tenant Improvements, including, without limitation, the manufacturing space, and shall consist of approximately thirty-two thousand three hundred ninety (32,390) gross square feet located on the first floor of the Building, all as depicted on the Preliminary Shell Plans attached as Exhibit "D".

As soon as reasonably possible after substantial completion of the Building and Tenant Improvements described herein for each phase, Landlord and Tenant shall confirm the measurements of the Gross Area of that phase of the Premises by Landlord measuring the Building in accordance with BOMA standards ANSIZ65.1 - 1980. If Tenant fails to dispute Landlord's measurements within fifteen (15) days after Tenant receives the Landlord's measurements, Tenant shall have waived any right to dispute Landlord's measurement and Landlord's measurements of Gross Area shall be conclusively deemed to be correct. If Tenant disputes the Landlord's measurements, Tenant shall, pending resolution thereof, nevertheless tender Rent hereunder based on the square footage specified by Landlord and Tenant shall submit Tenant's measurements and their dispute to Landlord within thirty (30) days after Tenant receives Landlord's measurements. Landlord and Tenant shall thereafter attempt to resolve any dispute within ten (10) days. If Landlord and Tenant fail to agree on the measurement of Gross Area within said ten (10) days, Landlord and Tenant shall submit their dispute to a third party acceptable the Landlord and Tenant and familiar with BOMA standards, who shall measure the applicable phase of the Premises and submit the calculation of Gross Area to Landlord and Tenant within ten (10) days. The determination of the Gross Area by said third person shall be binding upon the parties. The square footage of each phase of the Premises shall be confirmed by the parties by executing the confirmation of Gross Area in form of Exhibit "B" attached hereto and made a part hereof for all purposes, within five (5) days after determination of the Gross

Area by either Landlord and Tenant or a third party or within twenty (20) days following receipt of Landlord's measurements by Tenant is Tenant does not dispute such measurements. If Tenant has paid Rent based on Landlord's measurements and the Gross Area is less than Landlord's measurement, any excess Rent paid by Tenant shall be credited to the next Rent due and owing.

1.5.2 Completion of Premises. Tenant has entered into this Lease in expectation that Phase I of the Premises will be substantially completed by August 1, 1995 ("Phase I Outside Date") and that Phase II of the Premises will be substantially completed by March 1, 1996 ("Phase II Outside Date").

1.6 Lease Term. Except as otherwise provided in Paragraph 1.6.1 below, the term of the Lease for the portion of the Premises leased as Phase I (the "Phase I Premises") shall commence (the "Phase I Commencement Date") on the later of: (a) occupancy of the Phase I Premises by Tenant following substantial completion, of the Building Shell, Landlord's Work and the Tenant Improvements for the Phase I Premises (which occupancy shall occur no later than five (5) days after substantial completion thereof), or (b) August 1, 1995. The term of the Lease for the portion of the Premises leased as Phase II (the "Phase II Premises") shall commence (the "Phase II Commencement Date"); on the later of: (a) occupancy of the Phase II Premises by Tenant following substantial completion of the Tenant Improvements for the Phase II Premises (which occupancy shall occur no later than five (5) days after substantial completion thereof), or (b) January 1, 1996. The term of the Lease for all of the Premises shall end twenty (20) years following the Phase I Commencement Date, or approximately August 1, 2015 ("Lease Term") unless extended pursuant to Section 2.5 below. Landlord acknowledges that substantial completion of the Phase I Premises by August 1, 1995 and the Phase II Premises by March 1, 1996, is crucial to the operation of Tenant's business. Subject to delays caused by Tenant and delays outside the control of Landlord, as described in the Work Letter, if Landlord shall fail to substantially complete the Tenant Improvements for the applicable phase by August 1, 1995 and March 1, 1996, respectively, Tenant's obligation to pay Rent (as defined in Section 4.1 below) as to that particular phase, after the Phase I Commencement Date or the Phase II Commencement Date, as applicable, shall be postponed one (1) day for each day after August 1, 1995 or March 1, 1996, respectively, that substantial completion of the applicable portion of the Premises is delayed.

1.6.1 Delivery of Premises. If the Tenant Improvements for a portion of the Phase I Premises or the Phase II Premises are substantially complete prior to August 1, 1995, or March 1, 1996, as applicable, Tenant, with the consent of Landlord, may, but is not obligated to, occupy the portions of the Phase I Premises or the Phase II Premises for which the Tenant Improvements

have been substantially completed. In such event, the Commencement Date for the Phase I Premises or the Phase II Premises, as applicable, shall be the date of occupancy of the substantially completed portion of the Tenant Improvements first occupied by Tenant, but Tenant shall pay the Basic Monthly Rent only on the gross square feet of those portions of the Phase I Premises or Phase II Premises, as applicable, which have been substantially completed and which are actually occupied until such time as the remaining Phase I Premises or Phase II Premises have been substantially completed and occupied pursuant to Section 1.6 above.

1.6.2 Punch List Items. Prior to Tenant taking occupancy of any portion of the Premises pursuant to Section 1.6 above, Landlord shall notify Tenant in writing when Landlord considers the Tenant Improvements (as defined in the Work Letter) to be substantially complete and Tenant shall, as soon as possible but not later than three (3) days after notice of substantial completion is received by Tenant from Landlord, conduct a walk-through inspection of the applicable phase of the Premises (or portion thereof) with Landlord. Tenant shall notify Landlord in writing within two (2) days of completing said walk-through inspection of all learns of Tenant Improvements which Tenant reasonably determines must be completed or corrected ("Punch List Items"). Following preparation of the Punch List Items, Tenant shall take occupancy. Landlord shall complete repairs of the Punch List Items within forty-five (45) days of receipt of Tenant's notice of Punch List Items. If Landlord fails to complete repairs of the Punch List items within said 45 days, neither the Commencement Date nor the Lease Term shall be extended, but Tenant shall be entitled to complete the repairs at Landlord's cost and may offset the cost of such repairs from any Rent thereafter due and owing to Landlord. Any dispute regarding the completion of the Punch List Items shall be subject to arbitration under the American Arbitration Association rules.

1.7 Permitted Uses. The Premises shall be used as a medical research lab with light production and manufacturing of drug formulations, together with incidental office and storage uses and all other uses permitted by law. Notwithstanding the foregoing, all uses of the Premises shall be in accordance with (i) the City of San Diego's Scientific Research Zoning Ordinance, (ii) the Torrey Pines Science Center Planned Industrial Development ("PID"), (iii) any covenants, conditions and restrictions for the Project recorded as of the Effective Date together with all amendments thereto (so long as such amendments do not materially adversely impair Tenant's ability to use the Premises in accordance with the permitted uses described in the first sentence of this Section 1.7), and (iv) applicable governmental rules and regulations. In no event shall any use of the Premises involve any activity not covered by forms of insurance required to be maintained under this

Lease. Tenant shall obtain and maintain at its sole cost and expense, all governmental approvals and/or permits required for operation of Tenant's business as described in this Section 1.7, including but not limited to those needed in connection with the presence of Hazardous Materials (as defined in Section 5.4.6 hereof) in, on or about the Premises.

1.8 Rent and Other Charges Payable by Tenant.

1.8.1 Basic Monthly Rent. The basic monthly rent for the Premises ("Basic Monthly Rent") shall be the sum of TWO AND 25/100 DOLLARS ($2.25) per gross square foot of the Building per month for the first twelve (12) months of the Lease Term, and shall thereafter be adjusted as set forth in Section 3.2 below. The obligation of Tenant to pay Basic Monthly Rent shall commence on the Commencement Date for the applicable phase and shall continue uninterrupted throughout the remainder of the Lease Term. When Tenant's obligation to pay Rent commences for the Phase II Premises, the Basic Monthly Rent for the Phase II Premises shall be calculated at the same rate per square foot of Gross Area as used in calculating the Phase I Premises, and it shall be adjusted at the same time and in the same manner as the Rent is adjusted for the Phase I Premises, regardless of when Tenant's obligation to pay Rent commences for the Phase II Premises.

1.8.2 INTENTIONALLY DELETED.

1.8.3 Tenant's Share of Charges under the Declaration. The Building will contain approximately eighty-two thousand three hundred ninety (82,390) total gross square feet. The Project contains approximately one million two hundred ninety-nine thousand nine hundred ninety (1,299,990) gross square feet. Tenant's share of Assessments (as defined in Section 4.4.3) (based upon the gross square footage of the Building divided by the gross square footage of the Project) shall be Three and 85/100 percent (3.85%) after the Phase I Commencement Date and Six and 34/100 percent (6.34%) after the Phase II Commencement Date.

1.9 Condition Subsequent. Landlord agrees that it shall use its best efforts to obtain, within sixty (60) days after the date hereof, Chevron's execution of the following:

The Assignment Of Option And Consent To Assignment
by and among Landlord, Tenant and Chevron, as provided
in Section 15.6 below.

Tenant agrees to execute the Assignment described above once it is in reasonably satisfactory form.

1.10 Rider and Exhibits. The following exhibits are attached and made a part of this Lease:

Exhibit A:	Parcel Map
Exhibit B:	Confirmation of Gross Area
Exhibit C:	Work Letter Agreement
Exhibit D:	Preliminary Shell Plans showing Phase I and Phase II
Exhibit E:	Memorandum of Lease
Exhibit F:	Memorandum of Option
Exhibit G:	Assignment of Option and Consent to Assignment

II
LEASE TERM

2.1 Commencement Date. The Commencement Date shall be the date specified in Section 1.6 above for the beginning of the term of the Lease, unless advanced or delayed under any provision of this Lease.

2.2 Lease of Premises for Lease Term. Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord, in phases as described above, for the Lease Term. The Lease Term is for the period stated in Section 1.6 above, unless the beginning or end of the Lease Term is changed under any provision of this Lease.

2.3 Holding Over. Tenant shall vacate the Premises upon the expiration or earlier termination of this Lease, unless Tenant has exercised its Extension Option (as defined in section 2.5 below) or Landlord and Tenant have otherwise agreed in writing to extend the Lease Term. If Tenant, remains in possession of all or any part of the Premises after the expiration of the Lease Term and Extension thereof (as defined in Section 2.5 below), such tenancy shall be from month-to-month only and not a renewal hereof or an extension for any further term, and in such case, Basic Monthly Rent then in effect shall be increased to an amount equal to 125% of the Basic Monthly Rent then in effect and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease; and such month-to-month tenancy shall be subject to every other term, covenant and agreement contained herein, except that the month-to-month tenancy will be terminable upon thirty (30) days written notice given at any time by either party. In the event of any holding over without Landlord's prior consent, Tenant shall

indemnify Landlord against all claims for damages by any other tenant to whom Landlord may have leased all or any portion of the Premises commencing upon or after the expiration of the Lease Term and Tenant shall reimburse Landlord for and indemnify Landlord against all costs, expenses (including reasonable attorneys' fees), damages and losses incurred by Landlord as a result of Tenant's delay in vacating the Premises.

2.4 Surrender of Premises. Upon the termination of the Lease, Tenant shall surrender the Premises to Landlord in the condition specified in Section 6.5 below.

2.5 Option to Extend or Renew. Landlord hereby grants to Tenant two (2) consecutive five (5) year options (each, an "Extension Option") to extend the Lease Term (each, an "Extension") after the initial Lease Term expires. Each Extension shall be on the same terms and conditions as set forth in this Lease, but at an increased Base Monthly Rent as set forth in Section 3.3 below.

2.5.1 Notice. Each Extension Option shall be exercised only by written notice ("Notice of Exercise") delivered to Landlord at least six (6) months before the expiration of the Lease Term with respect to the first Extension Option, or, if the first Extension Option has been exercised, at least six (6) months before the expiration of the Lease Term as extended by the first Extension Option. If Tenant fails to deliver to Landlord its Notice of Exercise of the Extension Option within the prescribed time period, such Extension Option and any further Extension Option shall lapse, and there shall be no further right to extend the Lease Term. In addition, Tenant may deliver to Landlord a Notice of Intent pursuant to Section 3.3.1 below. Tenant's failure to timely deliver a Notice of Intent shall not affect Tenant's right to exercise the Extension Option; provided, however, that if the Notice of Intent was not timely delivered but the Notice of Exercise was timely delivered, Tenant shall be obligated to pay an increased Basic Monthly Rent based on the fair market value of the Premises determined in the manner described in Section 3.3 below. In the event that Tenant fails to deliver or fails to timely deliver a Notice of Intent, but timely delivers a Notice of Exercise, then, for purposes of determining the time periods set forth in Section 3.3, the term "Notice of Exercise" shall be substituted for the term "Notice of Intent" in the second and third sentences of Section 3.3.1, Section 3.3.2 and Section 3.3.7.

2.5.2 Conditions. Each Option shall be exercisable by Tenant on the express condition that at the time of the exercise, and at all times prior to the commencement of the Extension, Tenant shall not be in default under any of the provisions of the Lease after any applicable grace period, nor

shall there be a condition which, after notice or passage of time (or both), shall constitute a default.

2.6 Personal Options. Each Extension Option is personal to the Tenant named in Section 1.3 of the Lease and cannot be transferred without Landlord's consent. Notwithstanding the foregoing, if Landlord consents to a sublease of the Premises or an assignment of this Lease, each Extension Option may be transferred to Tenant's sublessee or assignee, at Tenant's election. The foregoing notwithstanding, at Landlord's election, Landlord may require that the applicable Extension Option be exercised for the entire Premises or none of the Premises.

III
BASIC MONTHLY RENT

3.1 Time and Manner of Payment. Upon the Commencement Date and each month thereafter Tenant shall pay Landlord the Basic Monthly Rent in the amount stated in Subsection 1.8.1 above (prorated for any partial month at the beginning or end of the Lease Term) in United States currency, in advance, on or before the first day of each month without offset, deduction or prior demand. The Basic Monthly Rent shall be payable at Landlord's address or at such other place as Landlord may designate in writing.

3.2 Rental Adjustments. The Basic Monthly Rent during the term of this Lease shall be adjusted as set forth below.

3.2.1 Rent Increases. The Basic Monthly Rent shall be increased on the first day of each Lease Year (as defined below) commencing with the second (2nd) Lease Year by three and five/tenths percent (3.5%) of the previous Lease Year's Basic Monthly Rent. As used herein, "Lease Year" is defined to mean (i) the fractional calendar month, if any, at the commencement of the Lease Term and the next succeeding twelve (12) full calendar months, and (ii) each period of twelve (12) full calendar months thereafter during the Lease Term. For the purpose of calculating Basic Monthly Rent increase, when Basic Monthly Rent commences for the Phase II Premises, itshall be calculated as if the Phase II Commencement Date were the same as the Phase I Commencement Date.

3.3 Basic Monthly Rent During Extension. If and when Tenant exercises its Extension Option to extend the Lease Term, the Basic Monthly Rent on the first day of such Extension shall be the "fair rental value" (as defined in Section 3.3.5 below) of the Premises, which fair rental value is to be determined as set forth in this Section 3.3, but in no event less than the Basic Monthly Rent then being paid at the end of the Lease Term or Extension then in effect, as appropriate.

3.3.1 Notice of Intent. Not sooner than one hundred twenty (120) days nor later than eighty-five (85) days prior to the date upon which a Notice of Exercise for an Option may be delivered ("Exercise Date"), Tenant shall deliver a written notice to Landlord of Tenant's intension to exercise the Option ("Notice of Intent"). Within ten (10) days after Landlord's receipt of the Notice of Intent, Landlord and Tenant shall meet in an effort to negotiate, in good faith, the fair rental value of the Premises as of the date when the Extension would commence ("Rental Adjustment Date") . If Landlord and Tenant have not agreed upon the fair rental value of the Premises within ten (10) days of the Landlord's receipt of a Notice of Intent, the fair rental value shall be determined by appraisal in the manner described below.

3.3.2 Appraisal Procedure. Landlord and Tenant shall attempt to agree in good faith upon a single appraiser within fifteen (15) days after Landlord's receipt of a Notice of Intent. If Landlord and Tenant are unable to agree upon a single appraiser within such time period, then Landlord and Tenant shall each appoint one appraiser within twenty (20) days after Landlord's receipt of a Notice of Intent. If, within the ten (10) days thereafter, the two appointed appraisers cannot agree upon selection of a third appraiser, then Landlord shall submit the appointment of a third appraiser to the American Arbitration Association, who shall appoint an appraiser meeting the requirements of Section 3.3.4 below, as the third appraiser. Notwithstanding any delays caused by the appraisal process or the selection of the appraiser(s) (including, without limitation, the time period, required to appoint a third appraiser), no extension of the final date upon which Tenant may deliver a Notice of Exercise shall be permitted.

3.3.3 Selection. If either Landlord or Tenant fails to appoint its appraiser within the prescribed time period, the single appraiser appointed shall determine the fair rental value of the Premises. If both parties fail to appoint appraisers within the prescribed time periods, then the first appraiser thereafter selected by a party shall determine the fair rental value of the Premises.

3.3.4 Costs and Qualifications. Each party shall bear the cost of its own appraiser and the parties shall share equally the cost of the single or third appraiser, if applicable. All appraisers so designated herein shall have at least five (5) years experience in the appraisal of commercial/industrial real property in the San Diego area in the SR zone and shall be members of professional organizations such as MAI or an equivalent.

3.3.5 Fair Rental Value Defined. The term "fair rental value" shall mean the price that a ready and willing

comparable, new non-renewal, non-equity tenant would pay, as of the applicable Rental Adjustment Date, as Basic Monthly Rent (giving appropriate consideration to the annual rental rate per gross square foot of buildable area and the allocation of expenses between Landlord and Tenant) to a ready and willing landlord of property comparable to the Premises in both class and location for a term comparable to the applicable Extension period if such property were exposed for lease on the open market for a reasonable period of time, taking into account all of the purposes for which such property may be used, including free rent, tenant improvement costs or similar leasing expenses being offered in the market as of the applicable Rental Adjustment Date (for previously leased space), including, without limitation, commissions which a landlord would typically incur, and considering other generally applicable terms and conditions such as length of term, size of premises, level and quality of services to the Premises, the allocation of expenses therefor between Landlord and Tenant, tenant improvement allowances and building standard items, for a comparable previously leased space.

3.3.6 Determination of Value. If a single appraiser is chosen, then such appraiser shall determine the fair rental value of the Premises. Otherwise, the fair rental value of the Premises shall be the arithmetic average of the two (2) of the three (3) appraisals which are closest in amount, and the third appraisal shall be disregarded.

3.3.7 Exercise of Option. Landlord and Tenant shall instruct the appraiser(s) to complete their determination of the fair rental value not later than fifty-five (55) days after Landlord's receipt of a Notice of Intent. When the fair rental value of the Premises is determined, Landlord shall deliver notice thereof to Tenant. Thereafter, Tenant may, but is not obligated to, in its sole and absolute discretion, considering the fair rental value determined as aforesaid, deliver its Notice of Exercise as described in Section 2.5 above. If the Notice of Intent was not timely delivered but the Notice of Exercise was timely delivered, Tenant shall be obligated to pay an increased Basic Monthly Rent based on the fair market value of the Premises determined in the manner described in this Section 3.3.

3.3.8 Extension. During an Extension, after the Basic Monthly Rent is determined as set forth above, the Basic Monthly Rent during the remainder of the Extension shall be increased on the first day of the first month following the twelve (12) month anniversary date of the applicable Extension and on every twelve (12) month anniversary thereafter during the Extension ("Adjustment Date") pursuant to Section 3.3.9 below.

3.3.9 Cost or Living Increases. The Basic Monthly Rent during any Extension shall be increased on the Adjustment Date in proportion to the increase in the Index (defined below) which has occurred between the month in which the previous Lease Year's adjustment was made and the Adjustment Date; provided, however, that the first such adjustment shall be in proportion to the increase in the Index which has occurred between the first month of the Extension and the month in which the Basic Monthly Rent is to be increased. The foregoing notwithstanding, in no event shall the increase in the Basic Monthly Rent on each Adjustment Date be less than three percent (3%) or greater than eight percent (8%) in any Lease Year regardless of the change in the Index. Landlord shall notify Tenant of each increase by delivering a written statement setting forth the Index for the previous year's adjustment month or for the first month of the Extension, whichever is appropriate, the Index for the month in which the Basic Monthly Rent is to be increased, the percentage increase between those two Indices, and the new amount of the Basic Monthly Rent.

3.3.10 Effective Date. Tenant shall pay the new Basic Monthly Rent from the Adjustment Date until the next Adjustment Date. Landlord's notice described in Section 3.3.9 above may be given after the Adjustment Date since the Index for the appropriate month may be unavailable on the Adjustment Date. In such event, Tenant shall pay Landlord the necessary rental adjustment for the months elapsed between the Adjustment Date of the increase and Landlord's notice of such increase within ten (10) business days after Landlord's notice.

3.3.11 Index. Adjustments shall be made utilizing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, Subgroup "All Items" for the Los Angeles-Anaheim-Riverside Statistical Area on the basis of 1982-84 = 100 (the "Index"). If the format or components of the Index are materially changed after the Effective Date, Landlord shall substitute an index which is published by the Bureau of Labor Statistics or similar agency and which iss most nearly equivalent to the Index in effect on the Effective Date. Landlord shall notify Tenant of the substituted index.

3.3.12 Delay in Determination of New Basic Monthly Rent. If the new Basic Monthly Rent cannot be determined on the Adjustment Date, Tenant shall continue paying the Basic Monthly Rent payable during the preceding 12-month period until such time as the new Basic Monthly Rent is determined. When the new Basic Monthly Rent is determined, Tenant shall pay the new Basic Monthly Rent retroactive to the applicable Adjustment Date.

3.4 Grant of Warrants. Upon the Closing of the first to occur of a) Tenant's Series "D" preferred financing or b) other

equity financing, Tenant will, at landlord's option, issue to Landlord that number of warrants to purchase shares of Tenant's capital stock issued in the financing equal to an amount determined by dividing (1) ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($1,500,000.00) by (2) the lesser of (i) the price at which Tenant's capital stock is issued and sold to investors in the such financing, or (ii) Seven and 50/100 Dollars ($7.50). The terms and conditions of the warrants so issued shall be identical to any warrants issued in the financing; provided, however, that (a) the exercise price shall be equal to the lesser of (i) the price paid by investors in the financing and (ii) Seven and 50/100 Dollars ($7.50); and (b) in no event shall the issuer of such warrants be permitted to call the same before the expiration of seven (7) years after the issue date. Such warrants shall only be issued to Landlord if the following conditions are satisfied: a) Landlord has purchased the Real Property pursuant to the Contract; and b) the Lease has not been terminated as provided in Section 1.4.2 above. Once such warrants have been issued, a default by Landlord under the terms of this Lease shall have no impact on the validity or enforceability of such warrants, as the rights and obligations of the parties thereunder are intended to be separate and distinct from this Lease.

IV
ADDITIONAL RENT

4.1 Additional Rent. All charges payable by Tenant hereunder other than Basic Monthly Rent are called "Additional Rent" and shall be paid in United States currency. Unless this Lease provides otherwise, all Additional Rent shall be paid with the next monthly installment of Basic Monthly Rent. As used herein, the term "Rent" shall mean Basic Monthly Rent and Additional Rent.

4.2 Real Property Taxes.

4.2.1 Payment of Taxes. Tenant shall pay all Real Property Taxes (as defined below) applicable to the Premises ("Tax Payments") during the Lease Term and any Extension. Payment shall be made directly to the appropriate taxing authority. The parties hereby acknowledge that the Real Property is presently assessed as a separate tax parcel. If the Real Property is at any future date not assessed as a separate parcel, Tenant shall pay its proportionate share of the Real Property Taxes (as defined below) levied and assessed against the tax parcel ("Parcel") of which the Premises are a part. Tenant's proportionate share of Real Property Taxes shall be the ratio that the gross square footage of the Premises bears to the total number of gross square feet in the Parcel. Each Lease Year Landlord shall notify Tenant of Landlord's calculation of Tenant's proportionate share of the Real Property Taxes and, together with such notice, shall furnish Tenant with a copy of the

tax bill. If any supplemental tax bills are delivered with respect to the Parcel, Landlord may notify Tenant of Landlord's new calculation of Tenant's proportionate share of Real Property Taxes as soon as such supplemental tax bills are received. Provided the notices set forth in this Section 4.2.1 are delivered, Tenant shall reimburse Landlord for Tenant's proportionate share of the Real Property Taxes semiannually no later than fifteen (15) days before the taxing authority's delinquency date. For purposes of calculating the Tax Payments tor the partial year periods ("Partial Year") between (i) the Commencement Date and the following December 31, (ii) the date of the end of the Lease Term or early termination and the immediately preceding January 1, Tax Payments for the calendar year in which the Partial Year occurs shall be reduced by multiplying such amounts by a fraction, the numerator of which is the number of days in the applicable Partial Year and the denominator of which is 365. The resulting amount shall be the Tax Payments payable during such Partial Year.

4.2.2 Definition of Real Property Tax. As used herein, "Real Property Tax" means: (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, improvement bond or bonds, assessment, penalty or tax, general or special, ordinary or extraordinary, imposed by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agriculture, lighting, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord in the Real Property, (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Real Property or against Landlord's business of leasing the Real Property, (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Real Property by any governmental agency, and (iv) any charge or fee replacing any tax previously included within the definition of Real Property Tax. "Real Property Tax" does not, however, include (i) Landlord's federal or state income, franchise, inheritance or estate taxes, or (ii) interest on taxes or penalties resulting from Landlord's failure to pay taxes unless such failure was the result of Tenant's failure to timely pay taxes as hereinabove provided. Tenant shall have the right, at any time and at its expense, to contest in good faith by judicial proceedings or otherwise any real or personal property assessment, valuation, or tax deemed excessive by Tenant, and, if necessary, to do so in the name of Landlord, and in such event Tenant shall not be obligated to pay such assessment, valuation or tax until a final judicial determination of such contest, but shall post such bonds as required by law and otherwise take all steps required to protect Landlord throughout any such contest.

4.2.3 Personal Property Taxes.

(a) Tenant shall pay prior to delinquency, all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant. Tenant shall attempt to have such personal property taxed separately from the Premises.

(b) If any such taxes on Tenant's personal property are levied against Landlord, or if the assessed value of the Project is increased by the inclusion therein of a value placed upon such personal property or trade fixtures of Tenant, then Landlord, after written notice to Tenant, shall have the right to pay the taxes based upon such increased assessments, regardless of the validity thereof, but only under proper protest if required by Tenant in writing. If Landlord shall do so, then Tenant shall, upon demand, repay to Landlord the taxes levied against Landlord, or the proportion of such taxes resulting from such increase in the assessment. In any such event, however, Tenant, at Tenant's sole cost and expense, shall have the right, in the name of Landlord and with Landlord's full cooperation, to bring suit in any court of competent jurisdiction to recover the amount of any such taxes so paid under protest; any amount so recovered to belong to Tenant.

(c) If any of Tenant's personal property is taxed with the Real Property, Tenant shall pay Landlord the taxes for the personal property within fifteen (15) days after Tenant receives a written statement from Landlord for such personal property taxes.

4.3 Utilities. The parties acknowledge that a separate metering system shall be installed in the Building as a part of the Tenant Improvements which will separately meter gas, electricity and water for, but not limited to, light, heat, ventilation, air conditioning services and water supplied to the Premises. Tenant shall arrange for and pay, directly to the appropriate supplier, the cost of all of such services and all other utilities, if any, supplied to the Premises, including sewer and waste removal. In addition, Tenant shall arrange for and pay directly to the appropriate supplier the cost of any and all telephone installation and service supplied to the Premises.

4.4 Common Area

4.4.1 Definition; Location. As used in this Lease, "Project Common Areas" shall mean all areas within the Project which are available for the common use of tenants of the Project as provided in that certain Declaration of Covenants and Restrictions for Torrey Pines Science Center [Unit 2] recorded on June 27, 1994 as Document No. 1994-0405385 ("Declaration"). The Project Common Areas will be maintained in accordance with the Declaration.

4.4.2 Use of Common Areas. Tenant shall have non-exclusive right to use the Project Common Areas as provided in the Declaration. Landlord hereby assigns to Tenant Landlord's rights under Section 12.2.3 of the Declaration to enforce the Declaration on a non-exclusive basis, as and when Tenant's interests are affected. Landlord shall provide to Tenant a copy of the Budget provided to Landlord pursuant to Section 10.4 of the Declaration within two (2) days after Landlord receives the Budget.

4.4.3 Expenses under the Declaration. Tenant shall pay Tenant's pro rata share of the Assessments (as defined in the Declaration) due under the Declaration for which Landlord is responsible as provided below. Tenant's pro rata share of the Assessments will be based on the Maximum Building Area (as defined in the Declaration) provided for the Real Property under the Declaration. Tenant shall pay all of any Assessments relative to the Real Property based on (a) the Transportation Demand Management Program described in Sections 2.2.6 and 10.5(6) of the Declaration, and (b) the use of the telecommunication facilities if Tenant utilizes such facilities as provided in Section 8.1(i) of the Declaration. Tenant shall pay to Landlord its pro rata share of the Regular Assessments (as defined in the Declaration) quarterly within ten (10) days after receipt of an invoice from Landlord specifying the amount of the Regular Assessments and Tenant's pro rata share thereof. If Landlord is notified that a Special Assessment is being considered under the Declaration and Landlord has a right to vote on such Special Assessment as provided in the Declaration, Landlord shall notify Tenant of the reason for the Special Assessment and shall consult with Tenant as to how Landlord should vote as an Owner under the Declaration. Landlord must obtain Tenant's consent as to how Landlord will vote with respect to any proposed Special Assessment, which consent will not be unreasonably withheld or delayed. If the Special Assessment is not to defray the actual Common Expenses of the Association as set forth in Section 10.7.1 of the Declaration, Tenant shall not be responsible for the payment of any portion of the Special Assessment. If the Special Assessment is to defray actual Common Expenses of the Association (as defined in the Declaration), Tenant shall pay its pro rata share of the Special Assessment within ten (10) days after receipt of an invoice from Landlord specifying the amount of the Special Assessment and Tenant's pro rata share thereof. Tenant shall pay its pro rata share of any Reimbursement Assessment (as defined in the Declaration) within ten (10) days after receipt of an invoice from Landlord specifying the amount of the Reimbursement Assessment and Tenant's pro rata share thereof. Except as expressly described in this Section 4.4.3, all other costs under the Declaration shall be paid exclusively by Landlord including, without limitation, the Lagoon Enhancement fees payable under Section 6.16 of the Declaration.

4.5 Late Charges. Rent not paid when due shall be subject to a late charge equal to three percent (3%) per month, but not greater than that rate permitted under applicable law prohibiting the charging of usurious interest. Tenant acknowledges that late payment of Rent shall cause Landlord to incur costs not contemplated by this Lease, the exact amount of which is extremely difficult and impractical to ascertain at this time. Accordingly, the parties agree that the foregoing late charge represents a reasonable estimate of the loss and expense to be suffered by Landlord by reason of Tenant's late payment.

V
USE OF PREMISES

5.1 Permitted Uses. Tenant may use the Premises only for the Permitted Uses set forth in Section 1.7 above.

5.2 Manner of Use.

5.2.1 Objectionable Uses. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with or infringe on the rights of other occupants of the Project, or injure or annoy them, or use or allow the Premises to be used, for any improper, immoral, or objectionable purposes; nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises or commit or suffer to be committed any waste in, on or about the Premises. Landlord shall not be liable to Tenant for any ether tenant's, occupant's or owner's failure to so conduct itself.

5.2.2 Non-permitted Uses. Tenant shall net do or permit to be done in or about the Premises, nor bring, keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated, or which is prohibited by any standard form of fire insurance policy or which will in any way increase the existing rate of or affect any fire or other insurance upon the Building or any part thereof or any of its contents, or cause a cancellation of any insurance policy covering the Building or any part thereof or any of its contents. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the Premises, the Declaration and the requirements of any Board of Fire Underwriters or other similar body now or hereafter instituted; with any order, directive or certificate of occupancy issued pursuant to any law, ordinance or regulation by any public officer insofar as the same relates to or affects the condition, use or occupancy of the Premises, including but not limited to, requirements of registration, utilization and other fees and structural

changes related to or affected by Tenant's acts, particular manner of occupancy or manner of use of the Premises, all at Tenant's sole expense; provided, however, Landlord shall be responsible for making alterations or repairs to the Premises at Landlord's sole cost in accordance with the conditions described in Section 6.2.2 below.

5.2.3 Prohibited Uses. Except as allowed pursuant to San Diego's Scientific Research Zoning Ordinance and the PID, Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner unreasonably offensive or objectionable to the Landlord or other occupants of the Project by reason of noise, odors and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein. Additionally, Tenant shall not use the Premises for:

(a) Any use or operation that results in air emissions of pollutants or contaminants, unless such emissions are in full compliance with all applicable laws relating to Hazardous Materials (as defined in Section 5.4.6 below);

(b) Any use that produces intense glare or heat, unless such use is performed only within an enclosed or screened area in a manner such that the glare or heat emitted will not be discernable from the property line of the Real Property;

(c) Any use that creates a sound pressure level in violation of any applicable laws; and

(d) Any use that creates a ground vibration that is perceptible, without, instruments, at any point along the property lines of the Real Property.

5.2.4 Permit. Tenant shall obtain and pay for all permits required for Tenant's particular manner of use and occupancy of the Premises and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the use by Tenant of the Premises, including the federal and California Occupational Health and Safety Acts.

5.3 Signs.

5.3.1 Permitted Signs. Tenant shall comply with the Torrey Pines Science Center Signage Guidelines and Criteria ("Sign Guidelines"). Landlord hereby assigns to Tenant all rights to any building and monument signs permitted under the Declaration and Sign Guidelines for the Real Property.

5.3.2 Sign Criteria. Tenant shall be permitted to install all signs allowed under the Declaration and Sign Guidelines provided that (i) Tenant obtains Landlord's prior consent to any proposed signs, which consent shall not be unreasonably withheld, (ii) Tenant obtains all permits and governmental consents required for the signs, (iii) the location and design have been reasonably approved by Landlord, and (iv) Tenant contracts for the construction of the signs with a contractor reasonably approved by Landlord. All costs and expenses associated with the design, construction and installation of the signs shall be paid as part of the Tenant Improvements Allowance (as defined in the Work Letter).

5.4 Hazardous Materials

5.4.1 Prohibition of Storage. Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about the Premises or the Project by Tenant, its agents, employees, contractors or invitees in a manner or for a purpose prohibited by any governmental agency or authority. If Tenant breaches the obligation stated in the preceding sentence, or if the presence of Hazardous Materials on the Premises caused or permitted by Tenant (including Hazardous Materials specifically permitted and identified below) results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then, in addition to the obligations of Tenant set forth in Section 7.2 below, Tenant shall indemnify, defend and hold Landlord, its agents, contractors and lenders harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including without limitation diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space in the Premises, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Lease Term as a result of such contamination.

5.4.1.1 Clean-up. This indemnification of Landlord, its agents, contractors and lenders, by Tenant relating to the causing or permitting of any Hazardous Material to be brought upon, kept or used in or about the Premises or the Project by Tenant, its agents, employees, contractors or invitees, in a manner or for a purpose prohibited by any governmental agency or authority, pursuant to Subsection 5.4.1 above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the

soil or groundwater on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises, provided that Landlord's approval of such action shall first be obtained, which approval shall not be unreasonably withheld, so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or the Project.

5.4.1.2 Business. Landlord acknowledges that it is not the intent of this Section 5.4 to prohibit Tenant from operating its business as described in Section 1.7 above. Tenant may operate its business according to the custom of the industry so long as the use or presence of Hazardous Materials is strictly and properly monitored and accomplished according to all applicable governmental requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord, prior to the Commencement Date, a list identifying each type of Hazardous Material to be present on the Premises and setting forth any and all governmental approvals or permits required in connection with the presence of Hazardous Materials on the Premises ("Hazardous Materials List"). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year during the Lease Term and any Extension, and shall deliver to Landlord an updated Hazardous Materials List before any new Hazardous Materials are brought onto the Premises which identifies all additional permits and approvals issued in conjunction with the new Hazardous Materials and the dates on which such permits and approvals were issued.

5.4.2 Termination of Lease. Notwithstanding the provisions of Subsection 5.4.1 above, Landlord shall have the right to terminate the Lease in Landlord's sole and absolute discretion in the event that (i) any anticipated use of the Premises by Tenant involves the generation or storage, use, treatment or disposal of Hazardous Material in a manner or for a purpose prohibited by any governmental agency or authority, (ii) Tenant has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises if the contamination resulted from Tenant's action or use of the Premises (unless Tenant is diligently seeking compliance with such remedial action), or (iii) Tenant is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Material on the Premises (unless Tenant is diligently seeking compliance with such enforcement order).

5.4.3 Assignment and Subletting. Notwithstanding the provisions of Subsection 5.4.1 above, if (i) any anticipated use of the Premises by any proposed assignee or sublessee involves the generation or storage, use, treatment or disposal of Hazardous Material in a manner or for a purpose prohibited by any governmental agency or authority, (ii) the proposed assignee or sublessee has been required by any prior landlord, lender or governmental authority to take remedial action in connection with Hazardous Material contaminating a property if the contamination resulted from such party's action or use of the property in question, or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Material, it shall not be unreasonable for Landlord to withhold its consent to an assignment or subletting to such proposed assignee or sublessee.

5.4.4 Condition. Landlord represents and warrants that except as to those matters disclosed in the Phase I Environmental Site Assessment prepared by Harding Lawson Associates dated October 19, 1988, the Phase II Environmental Site Assessment prepared by Harding Lawson Associates dated April 17, 1989, and the Updated Phase I Environmental Site Assessment prepared by Harding Lawson Associates dated April 29, 1994 (collectively, the "Environmental Studies") the Premises and, to the best of Landlord's knowledge, the Project and the Project Common Areas, as of the Effective Date (i) do not contain any Hazardous Material which is being used or stored in a manner prohibited by any applicable governmental law, ordinance, rule or regulation relating to the use or storage of Hazardous Materials ("Hazardous Materials Laws"), and (ii) have never been used for the treatment, storage or disposal of Hazardous Materials. Landlord is making no representations and warranties as to environmental matters except for the matters set forth in the Environmental Studies. If Landlord discovers that any violation of any Hazardous Materials Laws has occurred within the Project which Landlord reasonably determines affects or may affect the Premises or interferes with Tenant's business operations (other than a violation caused by Tenant, its agents, contractors, officers and/or employees) and is not being corrected, then Landlord shall promptly give Tenant written notice of such violation and shall use its best efforts to cause the offending party to have such violation corrected in compliance with applicable Hazardous Materials Laws. If the presence of Hazardous Materials on the Premises is caused or permitted by Landlord during Landlord's ownership of the Real Property which results in contamination of the Premises, or there is a breach of the representations and warranties of Landlord contained in this Section 5.4.4, then Landlord shall indemnify, defend and hold Tenant, its agents and contractors, harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the Lease Term as a result of such contamination or breach

of the representations and warranties contained in this Section 5.4.4. Landlord shall indemnify, defend and hold Tenant harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise from the contamination of the Premises by Hazardous Materials occurring prior to the Commencement Date and during Landlord's ownership of the Real Property.

5.4.5 Landlord's Right to Perform Tests. At any time prior to the expiration of the Lease Term and upon Landlord's reasonable belief that certain water, soil and/or other environmental tests are advisable, or if reasonably required in connection with Landlord's attempt to obtain financing for the Real Property, Landlord shall have the right following notice (except in the event of an emergency) to enter upon the Premises at all reasonable times in order to conduct appropriate tests of water and soil and to deliver to Tenant the results of such tests to attempt to demonstrate that contamination in excess of permissible levels has occurred as a result of Tenant's use of the Premises. Without limiting the foregoing sentence, Landlord shall have the right to have an environmental audit of the Premises conducted within one hundred eighty (180) days prior to the scheduled expiration date or earlier termination of this Lease (if the Lease is terminated on a date other than the scheduled termination date). Tenant shall promptly perform any remedial action recommended by such environmental audit unless the audit reveals that the Hazardous Materials resulted from the activities of a person other than Tenant its agents, contractors, officers and/or employees. The costs of such audits shall be borne by Landlord unless the audit discloses the existence of Hazardous Materials in excess of action levels or governmental standards, in which case the costs of the audit shall be borne by Tenant. Notwithstanding the foregoing, if the audit reveals that the Hazardous Materials resulted from the activities of a person other than Tenant, its agents, contractors, officers and/or employees, Tenant shall not be responsible for any portion of the cost of the audit. Tenant shall further be solely responsible for and shall defend, indemnify and hold the Landlord, its agents, contractors and lenders harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs, arising out of or in connection with, any removal, cleanup, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials. The foregoing indemnity shall not apply, however, if Tenant establishes that the Hazardous Materials were present prior to the Commencement Date or attributable to the actions of a person other than Tenant.

5.4.6 Definition of "Hazardous Materials." As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any

local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 2, Chapter 6.8 (Carpenter-Presly-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance" or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Substances), (v) petroleum; (vi) asbestos, (vii) listed under Article 9 and defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act" (33 U.S.C. Section 1317) , (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601).

5.5 Landlord's Access. Landlord and its agents may enter the Premises at all reasonable times to show the Premises to potential buyers, investors or other parties, or for any other purpose Landlord deems necessary. Landlord shall give Tenant twenty-four (24) hours prior notice (which may be verbal) of such entry, except in the case of an emergency. Landlord acknowledges that access to clean rooms and other areas may be restricted to protect Tenant's product, health and safety. In the event access to these areas by Landlord is necessary, Tenant will reasonably cooperate in performing those activities necessary to make the areas safe. Subject to the above, Landlord may place customary "For Sale" signs on the Premises. Landlord or its agents may enter the Premises at all reasonable times during the final year of the Lease Term or any Extension (as applicable) to show the Premises to potential tenants. During the last year of the Lease Term or any Extension (as applicable), Landlord may place customary "For Lease" signs on the Premises.

5.6 Quiet Possession. If Tenant pays the Rent and complies with all other terms of this Lease, Tenant may occupy and enjoy the Premises for the full Lease Term, and any Extension, subject to the provisions of this Lease.

VI

CONDITION OF PREMISES.; MAINTENANCE, REPAIRS AND ALTERATIONS

6.1 Condition of the Premises. Tenant accepts the Premises in accordance with the terms and conditions of this Lease, and in their condition as of Tenant's occupancy, subject to all laws, ordinances, and governmental regulations and orders.

6.2 Landlord's Provision of Services.

6.2.1 Services. Landlord agrees to make available, in the manner provided in the Work Letter (that is, either up to the Building or within a specified distance to the Building) throughout the Lease Term and any Extension (as applicable) facilities for delivery to the Premises of necessary utilities, including electric, water, telephone and other necessary utility lines, and sewerage lines all sufficient to service Tenant's operations upon substantial completion of the Phase II portion of the Premises. Tenant shall be responsible for paying the cost of any such services which are supplied to the Premises. At all times, Tenant's use of electric current shall not exceed the capacity of the feeders to the Building or the risers or wiring installed therein.

6.2.2 Maintenance and Repair Service. Landlord shall be responsible for the maintenance, repair and replacement of all structural portions of the Building. As used herein, "structural portions of the Building" shall mean all structural aspects of the Building, including the foundation and slabs, exterior walls, all roofing and exterior glass of the Building. Landlord shall also be responsible for making alterations to the structural portion of the Building which Landlord is required to maintain or repair hereunder if such alterations are required by changes in the law after the Commencement Date, and are not required as the result of Tenant's particular manner of occupancy or use of the Premises. Landlord shall promptly make and pay for all repairs and replacements of a structural nature to the Building which are not made necessary by any intentional act or negligent use of the Premises by Tenant, its agents, contractors, officers and/or employees or any failure by Tenant to perform its obligations hereunder, and shall make such other repairs and replacements, structural or otherwise, as may be necessary by reason of Landlord's defective workmanship, or failure to construct the Landlord's Improvements (as defined in the Work Letter) as required. Landlord shall keep the structural portion of the Building in good order, condition and repair during the Lease Term and any Extension (as applicable). Landlord shall have no obligation to provide repair or maintenance services to any area which Tenant may designate as a restricted area. Landlord shall use Landlord's best efforts to conduct such repairs and maintenance in a manner which does not unreasonably impact Tenant's business operations.

6.2.3 Landlord's Expense. If Landlord refuses or neglects to repair the Premises as required hereunder to the reasonable satisfaction of Tenant, Tenant may, upon, thirty (30) days' prior notice (except that no notice shall be required in the case of emergency) perform such repair and maintenance on behalf of Landlord and upon completion thereof, Landlord shall pay Tenant's cost for making such repairs upon presentation of a bill relating thereto. Said bill shall include interest at ten percent (10%) per annum on said cost from the date of completion of repairs by Tenant until reimbursed in full by Landlord. If Landlord does not pay Tenant the full amounts owing within ten (10) days after receipt of a bill, Tenant may offset the cost of such repair and maintenance, and interest accrued thereon, against Rent.

6.3 Tenant's Obligations.

6.3.1 Maintenance and Repair. Tenant shall be responsible for the maintenance, repair and replacement of all portions of the Premises for which Landlord is not expressly obligated hereunder to maintain and repair including, but not limited to, the Tenant Improvements. Tenant shall keep all Tenant Improvements installed on the Premises in good order, condition and repair during the Lease Term and any Extension (as applicable). It is the intention of Landlord and Tenant that, at all times during the Lease Term and any Extension (as applicable), Tenant shall maintain all Tenant Improvements in an attractive, first-class and fully operative condition. Notwithstanding the foregoing, Tenant shall have no obligation to repair any damage or defects caused by any intentional act or negligence of Landlord, its agents or contractors or which may be caused by or result from any repairs, alterations, replacements or other improvements or installations made by Landlord, its agents or contractors, and the cost of any such repairs effected by Tenant (provided that, except in the case of emergencies, prior to undertaking any such repairs Tenant provides to Landlord written notice and an opportunity to perform such repairs for a 20-day period, which 20-day period shall be extended for any additional time reasonably required by Landlord to complete such repairs, if Landlord has commenced within such 20-day period and is diligently processing such repairs to completion) shall be promptly reimbursed by Landlord within ten (10) days following billing thereof from Tenant.

6.3.2 Tenant Expense. All of Tenant's obligations to maintain and repair shall be accomplished at Tenant's sole expense. If Tenant refuses or neglects to repair properly as required hereunder and to the reasonable satisfaction of Landlord, Landlord may on ten (10) days' prior notice (except that no notice shall be required in case of emergency) enter the Premises and perform such repair and maintenance on behalf of Tenant without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or to Tenant's business by reasons;

thereof, and upon completion thereof, Tenant shall pay Landlord's costs of making such repairs plus ten percent (10%) per annum for overhead, upon presentation of a bill therefore, as Additional Rent. Said bill shall include interest at ten percent (10%) per annum on said costs from the date of completion of repairs by Landlord until paid in full by Tenant. Landlord may deduct all such amounts from any monies Landlord owes to Tenant.

6.4 Alterations, Additions, and Improvements .

6.4.1 Procedure for Making Alterations . Tenant shall not make any alterations, additions or improvements to the Premises without Landlord's prior written consent, except for non-structural alterations costing less than $10,000 for a single alteration or $50,000 in the aggregate (collectively, the "Nonconsent Amounts"). The Nonconsent Amounts shall be subject to periodic changes if reasonably required by Landlord's lender; provided that landlord agrees to use its best efforts to negotiate with the lender the largest dollar amount possible for the Nonconsent Amounts. Tenant shall give Landlord notice of all alterations, additions or improvements not requiring Landlord's advance written consent. Landlord shall give written notification to Tenant of Landlord's reasonable approval or disapproval of alterations, additions or improvements which affect the structural components of the Building within ten (10) working days of Landlord's receipt of reasonably detailed plans thereof. If Landlord does not respond to Tenant within ten (10) working days after receipt of plans, Landlord shall be deemed to have approved such alterations. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Subsection upon Landlord's written request. All alterations, additions, and improvements will be accomplished in good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor reasonably approved by Landlord. Upon completion of any such work, Tenant shall provide Landlord with marked up shop drawings, copies of all construction contracts, and proof of payment for all labor and materials. Any additions to, or alterations of, the Premises shall become at once a part of the Premises and belong to Landlord, except (i) moveable furniture, (ii) trade fixtures, (iii) process and process support equipment (except for any materials or items designated in Section 6.5.1 below as not to be removed by Tenant) and (iv) any items listed in the Final Plans (as defined in the Work Letter) for the Tenant Improvements which Landlord has agreed to in writing, may be removed upon the termination of this Lease (or any items listed in the final plans for any subsequent alterations, additions or improvements which Landlord has agreed to in writing may be so removed), provided the Premises are not damaged by any such removal, such removal is otherwise conducted in accordance with Section 6.5.2 below, and Tenant shall not then be in default beyond

any applicable grace period under the terms and conditions of this Lease (that is, should Tenant be in default, it shall have no right to remove any alterations, additions or improvements (including equipment) from the Premises. The foregoing notwithstanding, Landlord hereby agrees to subordinate its interest in any of Tenant's equipment which is, at the time of any such default, subject to an equipment lease/financing encumbrance (the "Equipment Lien") to the interest of the holder of the Equipment Lien; provided that Tenant shall use its best efforts to obtain from the holder of the Equipment Lien, at the time of origination thereof, a written agreement to first offer to Landlord the option to purchase the equipment if Tenant is in default under the terms of this Lease before exercising any rights it may have "under the documents evidencing the Equipment Lien.

6.4.2 Condition of Landlord's Approval. Any alterations, improvements, or additions in or about the Premises that Tenant shall desire to make and which requires the consent of Landlord shall be presented to Landlord in written form, with detailed plans for the proposed work. If Landlord shall give its consent thereto, the consent shall be deemed conditioned upon Tenant's (i) acquiring a permit to complete such work from appropriate governmental agencies, (ii) furnishing of a copy thereof to Landlord prior to the commencement of the work, and (iii) complying with all conditions of said permit in a prompt and expeditious manner.

6.4.3 Payment by Tenant. Tenant shall pay when due all claims for labor and material furnished to the Premises. Tenant shall give Landlord at least fifteen (15) days' prior written notice of the commencement of any work on the Premises whether or not Landlord's consent to such work is required. Landlord may elect to record and post notices of nonresponsibility on the Premises.

6.4.4 Freedom From Liens. Tenant shall keep the Premises, all other property therein and the Building free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant, and shall indemnify, hold harmless and defend Landlord and Landlord's lender from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. In the event that Tenant shall not, within thirty (30) days following the imposition of any such lien, cause such lien to be released of record by payment or, if Tenant has a good faith dispute with regard to such lien, by posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith, including attorneys' fees and costs, shall be payable to Landlord by Tenant on demand with interest at the maximum rate allowed by law.

6.5 Condition Upon Termination. Upon the termination of the Lease, (whether by default or otherwise) Tenant shall surrender the Premises and all Tenant Improvements to Landlord broom clean and in the same condition, as received, except ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage which Landlord is required to repair under Article Eight (Damage or Destruction).

6.5.1 Tenant Equipment That Remains on the Premises. In no event shall Tenant remove from the Premises any of the initial Tenant Improvements constructed pursuant to the Work Letter. Notwithstanding the foregoing, upon termination of this Lease (at expiration of the Term or for any other reason), Tenant shall offer Landlord the right to purchase Tenant's equipment which is part of the Building Systems (but not process equipment) including, for example, DI water system, WFI still, clean steam generator, emergency generator, and any other items agreed to by Landlord in writing on the Final Plans and/or on any plans approved by Landlord in connection with any subsequent alterations, additions or improvements. The price of said equipment will be the residual value at the time of the purchase based upon agreement or a mutually agreed upon appraisal method. Landlord and Tenant shall designate a mutually agreed upon company as the appraiser to conduct the appraisal in the event that Landlord and Tenant are unable to agree with respect to the residual value of the equipment. If Landlord does not elect to purchase the equipment, Tenant shall, at its sole cost, remove any of the equipment which Landlord elects not to purchase and shall restore the Premises as described in Section 6.5.2 below. The foregoing notwithstanding, Landlord hereby agrees to subordinate its rights under this Section 6.5.1 to any equipment which is subject to an equipment lease/financing encumbrance (the "Equipment Lien") to the holder of the Equipment Lien; provided that Tenant shall use its best efforts to obtain from the holder of the Equipment Lien, at the time of origination thereof, a written agreement to first offer to Landlord the option to purchase the equipment if Tenant is in default under the terms of the equipment lease or this Lease before exercising any rights its rights under the documents evidencing the Equipment Lien.

6.5.2 Removal of Tenant Equipment. All equipment which Tenant is permitted to remove pursuant to Section 6.5.1 above must be removed promptly after the termination of the Lease and Tenant shall repair, at Tenant's expense, any damage to the Building or the Premises caused by such removal. If Tenant fails to repair the Premises, Landlord may complete such repairs and

Tenant shall reimburse Landlord for such repair and restoration. If Tenant fails to remove such property as required under this Lease, Landlord may dispose of such property in its sole discretion without liability to Landlord, and further may charge the cost of any such disposition to Tenant.

VII
INSURANCE AND INDEMNITY

7.1 Insurance Premiums.

7.1.1 Liability Insurance. Tenant shall, at its sole expense, maintain during the Lease Term and any Extension (as applicable) comprehensive general or commercial liability insurance, including contractual liability insurance covering Tenant's indemnification of Landlord and personal injury coverage, with limits of not less than $2,000,000 per occurrence combined single limit for bodily injury and property damage, and $3,000,000 annual aggregate for personal injury and contractual liability. The amount of liability insurance shall be subject to periodic insurance based on lender requirements provided such increase is reasonable and customarily required of other tenants with businesses similar to Tenant's. Tenant's insurance shall be written under policies issued by insurers acceptable to Landlord, shall name Landlord, its agents, servants and employees as additional insureds, and shall contain a provision that said insurance shall not be canceled without thirty (30) days written notice to Landlord. Tenant shall, upon execution of this Lease, deliver to Landlord a certificate of insurance evidencing the insurance required to be carried by Tenant and shall provide to Landlord renewal certificates of insurance not less than ten (10) days prior to the expiration date of any policy. If Tenant fails to provide proper verification of insurance, upon receipt of Landlord's written notice thereof, Tenant shall have ten (10) days to cure such default. Tenant's failure to cure such default shall be a material default under this Lease. Tenant may, at Tenant's expense, maintain such other insurance as Tenant deems necessary to protect Tenant.

7.1.2 Hazard Insurance. During the Lease Term and any Extension (as applicable), Tenant shall, maintain policies of insurance covering loss of or damage to the Building and the structural portions of the Premises and the Tenant Improvements to the extent of at least one hundred percent (100%) of its replacement value, including a loss of rents clause. Tenant shall not do or permit to be done anything which invalidates any such insurance policies. Such policies shall generally be on an "all-risk" form and provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, earthquake, and any other perils which Landlord deems necessary, and shall be payable to Landlord. In addition, Tenant

shall, at Tenant's expense, maintain an "all-risk" insurance policy in the amount of one hundred percent (100%) of replacement value on its fixtures, equipment, personal property and building improvements (including the Tenant Improvements) and all alterations and additions to the Premises.

7.1.3 Other Insurance. Tenant shall maintain, during the term of this Lease, (i) statutory amounts of workers' compensation insurance as required by the State of California covering all persons employed by Tenant, and (ii) environmental remediation, business interruption, loss of rents, and products liability (and/or clinical trial coverage, as appropriate) insurance in amounts reasonably determined by Tenant but in no event less than the amount required by Landlord's lender if such amount is reasonable and customarily required of tenants with businesses similar to Tenant's. The parties specifically acknowledge and agree that (i) Tenant's earthquake coverage shall be in the amounts and for the scope of coverage as is customarily purchased by reasonably prudent tenants similarly situated in the geographic region of the Premises at the time the coverage is evaluated; (ii) Tenant shall have the right, at its option, to satisfy the requirement for earthquake insurance by utilizing Landlord's blanket policy and remitting to Landlord its pro rata share of the cost therefor; and (iii) Tenant's obligation to provide earthquake coverage shall commence upon substantial completion of the Phase II Premises.

7.1.4 Form of Policies. All insurance policies required to be carried by Tenant under this Lease shall (i) be written by companies rated A-10 or better in "Best's Insurance Guide" and authorized to do business in California, (ii) name Landlord, and any other parties designated by Landlord as additional insureds, (iii) as to liability coverages, be written on an "Occurrence" basis, (iv) provide that Landlord shall receive at least thirty (30) days notice from the insurer before any cancellation or change in coverage, and (v) contain a provision that no act or omission, by Tenant shall effect or limit the obligation of the insured to pay the amount of loss sustained. Each such policy shall contain a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord shall be excess insurance. Any deductible amounts under any insurance policies required hereunder shall be subject to Landlord's prior written approval (which shall not be unreasonably withheld) and in any event Tenant shall be liable for payment of same in the event of any casualty. Tenant shall deliver reasonably satisfactory evidence of such insurance to Landlord, and Tenant shall attempt to incorporate Landlord's reasonable requests as to such policies.

7.1.5 Increase in Fire Insurance Premium. Tenant agrees that it will not keep, use, manufacture, assemble, sell or offer for sale in or upon the Premises any article which may be prohibited by the standard form of fire insurance policy. Tenant shall be solely responsible for and shall pay to Landlord upon demand any increase in insurance premiums that may be charged during the term of this Lease on the amount of such insurance which may be carried by Landlord on said Premises, resulting from the acts or omissions of the Tenant, its agents, servants or employees, or the use or occupancy of the Premises by the Tenant or from the type of materials or products stored, manufactured, assembled sold by Tenant in the Premises, whether or not Landlord has consented to the same. In determining whether increased premiums are the result of Tenant's use of the Premises, a schedule, issued by the organization making the insurance rate on the Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the Premises.

7.1.6 Waiver of Subrogation. Landlord and Tenant each hereby waive any and all rights of recovery against each other and the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control, to the extent that such loss or damage is insured against under the insurance required to be carried by such waiving party under Subsection 7.1.2 of this Lease, or under any other policy or policies of property insurance carried by such waiving party. Each policy of insurance shall contain a provision waiving subrogation against the other party to this Lease.

7.2 Indemnification of Landlord. Tenant shall protect and indemnity Landlord and its partners, directors, officers, agents, employees and lenders (collectively, "Agents") and save them harmless from and against any and all claims, actions, loss, damages, liability, cost and expense (including, without limitation, court costs and attorneys' fees) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or about the Premises, or the occupancy or use by Tenant of the Premises or any part thereof, or occasioned, wholly or in part by any act or omission of Tenant, its agents, contractors employees servants, tenants or concessionaires. Tenant shall further indemnify, protect and hold Landlord and its Agents harmless from and against any and all claims arising from any breach or default in performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act, neglect, fault or omission of Tenant by its agents, contractors, employees, servants, tenants or concessionaires, and from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with such claim or any action or

proceeding brought thereon. In case any action or proceeding shall be brought against Landlord and/or any of its Agents by reason of any such claim, Tenant upon notice from Landlord or its Agents, shall defend the same at Tenant's expense by counsel reasonably approved in writing by Landlord or its Agents, or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such action or proceeding. The provisions of this Section 7.2 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination and shall not be limited by reason of any insurance carried by Landlord, its Agents or Tenant.

7.3 Limitation of Landlord's Liability. The obligations of Landlord under this Lease do not constitute personal obligations of the individual partners, shareholders, directors, officers, employees, or agents of Landlord, and Tenant shall look solely to Landlord's interest in the Premises and to no other assets of Landlord, for satisfaction of any liability in respect of this Lease. Tenant will not seek recourse against the individual partners, shareholders, directors, officers, employees or agents of Landlord or any of their personal assets for such satisfaction. Notwithstanding any other provisions contained herein, except as expressly provided herein, Landlord shall not be liable to Tenant, its contractors, agents or employees, for any consequential damages or damages for loss of profits.

7.4 Commissions. The parties mutually warrant and covenant that no brokerage commissions shall be due and payable on account of this transaction other than to Colliers Iliff, Thorn, and each party shall hold the other harmless from claims for such commissions arising from the actions of such party. Landlord shall be wholly liable for payment of the commission owing to Colliers Iliff, Thorn and Company.

VIII
DAMAGE OR DESTRUCTION

8.1 Partial Damage to Premises. Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Premises. If the Premises are only partially damaged and if the proceeds received by Tenant from the insurance policies describe in Subsection 7.1.2 are sufficient to pay for the necessary repairs (including Landlord's overhead and other customary indirect costs), this Lease shall remain in effect and Landlord shall repair the damage as soon as reasonably possible provided, however, that if Landlord cannot repair the Premises within one hundred eighty (180) days after the damage occurs, then Tenant shall have the right to terminate the Lease as of the date the damage occurred by delivering notice to Landlord within twenty (20) days of Landlord's notice

of the amount of time it will take Landlord to repair the damage. If Tenant fails to deliver its notice of election to terminate within such twenty (20) day period, then Tenant shall have waived its right to terminate this Lease. "Partially damaged" shall mean that the damage to the Premises does not exceed fifty percent (50%) of the replacement value of the Building. Landlord may elect to repair any damage to Tenant's fixtures, equipment, or improvements. If the insurance proceeds are not sufficient to pay the entire cost of repair, or if the cause of the damage is not covered by the insurance policies which Tenant maintains under Subsection 7.1.2, Landlord may elect either to (a) repair the damage as soon as reasonably possible, in which case this Lease shall remain in full force and effect, or (b) terminate this Lease as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice of the occurrence of the damage whether Landlord elects to repair the damage or terminate the Lease. If Landlord elects to terminate this Lease, Tenant may elect to continue this Lease in full force and effect by giving Landlord written notice of such election within ten (10) days after receiving Landlord's termination notice, in which case Tenant shall repair any damage to the Premises at Tenant's sole cost and expense. If the damage to the Premises occurs during the last year of the Lease Term or any Extension (as applicable), Landlord or Tenant may elect to terminate this Lease as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds. In such event, Landlord shall not be obligated to repair or restore the Premises and Tenant shall have no right to continue this Lease. Landlord or Tenant shall notify the other party of its election within thirty (30) days after the occurrence of the damage.

8.2 Total or Substantial Destruction. If the Premises are totally or substantially destroyed by any cause whatsoever, this Lease shall, at the election of the Landlord, terminate as of the date the destruction occurred (the "Date of Destruction") regardless of whether Landlord receives any insurance proceeds.

8.2.1 Rebuilding the Premises. If, in Landlord's determination, the Premises can be rebuilt within one hundred eighty (180) days after the Date of Destruction, Landlord may elect to rebuild the Premises at Landlord's own expense (with all insurance proceeds being made available to the Landlord to apply against such costs), in which case, this Lease shall remain in full force and effect. Landlord shall notify Tenant of such election within twenty (20) days after the Date of Destruction. If the Date of Destruction occurs during the last year of the Lease Term or any Extension (as applicable), Tenant has the right to terminate the Lease within twenty (20) days of the Date of Destruction regardless of whether or not Landlord elects to rebuild the Premises.

8.3 Uninsured Casualty. In the event the Premises are fully or partially destroyed by any casualty not covered under the fire and extended coverage insurance carried by Landlord and Tenant, then Landlord may elect to terminate this Lease. In the event of such termination, the rights and obligations of the parties hereunder shall cease. If the Landlord does not elect to so terminate, then the Landlord shall promptly commence repairing such damage at the Landlord's sole cost and expense.

8.4 Landlord's Obligations. Landlord shall not be required to repair any injury or damage by fire or other cause, or to make restoration or replacement of any paneling, decorations, partitions, railings, floor coverings, office fixtures or any other improvements or property installed in the Premises. Tenant shall be required to restore or replace the same in the event of damage. Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration, except where due to Landlord's intentional misconduct or gross negligence and where (and only to the extent that) it is the case that insurance proceeds are available, nor shall Tenant have the right to terminate this Lease as the result of any statutory provision now or hereafter in effect pertaining to the damage and destruction of the Premises.

8.5 Temporary Reduction of Rent. If the Premises are made untenantable in whole or in part by fire or by other casualty insured against by policies of insurance carried by the Landlord, any rent payable as Basic Monthly Rent or Additional Rent shall be reduced in proportion to the part of the Premises which is unusable by the Tenant, as determined by Tenant, until repairs can be made or the Lease terminated as provided herein provided that Landlord shall be entitled to that portion of Tenant's business interruption insurance which covers the Rent payable hereunder. Except for such reduction in Rent, Tenant shall not be entitled to any compensation, reduction, or reimbursement from Landlord as a result of any damage, destruction, repair or restoration of or to the Premises.

8.6 Waiver. Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of damage or destruction of the Premises (including but not limited to California Civil Code Sections 1932 and 1933. Tenant agrees that the provisions of this Article Eight shall govern the rights and obligations of Landlord and Tenant in the event of any damage or destruction of the Premises.

IX
EMINENT DOMAIN

9.1 Total Condemnation. If the whole of the Premises is acquired or condemned by eminent domain, inversely condemned or

sold in lieu of condemnation, for any public or quasi-public use or purpose ("condemned"), then the Lease Term shall terminate as of the date of title vesting in such proceeding and the Rent shall be adjusted to the date of termination. Tenant shall immediately notify Landlord of any such occurrence.

9.2 Partial Condemnation. If any part of the Premises is condemned, and such partial condemnation renders the Premises unusable for the business of the Tenant in Tenant's opinion, then the term of this Lease shall terminate as of the date of title vesting in such proceeding and Rent shall be adjusted to the date of termination. If such condemnation is not extensive enough to render the Premises unusable for the business of Tenant, then Landlord shall promptly restore the Premises to a condition comparable to its condition immediately prior to such condemnation less the portion thereof lost in such condemnation, using proceeds recovered by Landlord. In such event this Lease shall continue in full force and effect, except that after the date of such title vesting, the Basic Monthly Rent shall be reduced as reasonably determined by Landlord. Tenant waives the provisions of Code of Civil Procedure Section 1265.130 allowing Tenant to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

9.3 Landlord's Award. If the Premises are wholly or partially condemned, then, subject to the provisions of Section 9.4 below, Landlord shall be entitled to the entire award paid for such condemnation, and Tenant waives any right or claim in any part thereof from the Landlord or the condemning authority.

9.4 Tenant's Award. Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in its own right on account of any and all costs or loss (including loss of business) to which Tenant might incur in moving Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment to a new location, provided that Tenant's award shall in no event reduce the amount of the award paid to Landlord.

9.5 Temporary Condemnation. If the whole or any part of the Premises shall be condemned for any temporary public or quasi-public use or purpose, this Lease shall remain in effect and Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the term. If a temporary condemnation remains in force at the expiration or earlier termination of this Lease, Tenant shall pay to Landlord a sum equal to the reasonable cost of performing any obligations required of Tenant by this Lease with respect to the surrender of the Premises, including, without

limitation, repairs and maintenance required, and upon such payment Tenant shall be excused from any such obligations.

9.6 Notice and Execution. Landlord shall within ten (10) days of service of process in connection with any condemnation, or potential condemnation, give Tenant notice in writing thereof. Tenant shall immediately execute and deliver to the Landlord all instruments that may be required to effect the provisions of this Article.

X
ASSIGNMENT AND SUBLETTING

10.1 Landlord's Consent Required. Except as provided below, no portion of the Premises or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by assignment mortgage, sublease, transfer, operation of law, or act of Tenant, without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed. Except as provided below, any attempted transfer without consent shall be void and shall constitute a non-curable breach of this Lease. If Tenant is a partnership, (i) any cumulative transfer of more than fifty percent (50%) of the partnership interests, or (ii) the admission of a new general partner, or (iii) the transfer of any interest of any general partner in the partnership shall require Landlord's consent. If Tenant is a corporation, any change in a controlling interest of the voting stock of the corporation shall require Landlord's consent if such change results in a material adverse change to Tenant's financial condition or prospective ability to perform under this Lease.

10.1.1 Permitted Transfers. Tenant shall have the right, without the prior consent of Landlord, to assign its interest in the Lease (i) to any corporation which is a successor to Tenant either by merger or consolidation, (ii) to a purchaser of all or substantially all of Tenant's assets (provided such purchaser shall have also assumed substantially all of Tenant's liabilities), or (iii) to a corporation or other entity which shall (1) control, (2) be under the control of, or (3) be under common control with, Tenant (the term "control" as used herein shall be deemed to mean ownership, directly or indirectly, of at least thirty percent (30%) of the outstanding voting stock of a corporation, or at least a thirty percent (30%) equity and control interest if Tenant is not a corporation) (any such entity being a "Related Entity"). Tenant may also sublease all or any portion of the Premises to a Related Entity without the consent of Landlord.

10.2 No Release of Tenant. No transfer permitted by this Article Ten, whether with or without Landlord's consent, shall release Tenant or change Tenant's primary liability to pay the Rent

and to perform all other obligations of Tenant under this Lease. Landlord's acceptance of Rent from any other person is not a waiver of any provision of this Article Ten. Consent to one transfer is not a consent to any subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

10.3 Landlord's Election. Tenant's request for consent to any transfer described in Section 10.1 above shall be accompanied by a written statement setting forth the details of the proposed transfer, including the name, business and financial condition of the prospective transferee, financial details of the proposed transfer (e.g., the term of and rent and security deposit payable under, any assignment or sublease), and any other information Landlord deems relevant. Landlord shall have the right to (i) withhold consent, if reasonable; or (ii) grant consent to a transfer.

10.4 No Merger. No merger shall result from Tenant's sublease of the Premises under this Article Ten, Tenant's surrender of this Lease or the termination of this Lease in any either manner. In any such event, Landlord may terminate any or all subtenancies or succeed to the Interest of Tenant as sublandlord thereunder.

10.5 Involuntary Transfers. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. §101 et seq. (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or delivered to Landlord under the preceding sentence shall be held in trust for the benefit of Landlord and be promptly paid or delivered to Landlord. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption.

XI
DEFAULTS; REMEDIES

11.1 Covenants and Conditions. Time is of the essence in the performance of all covenants and conditions by both Landlord and Tenant.

11.2 Default by Tenant. Tenant shall be in material default under this Lease:

11.2.1 Abandonment. If Tenant abandons the Premises or if such abandonment of the Premises results in the cancellation of any insurance described in Article Seven; or

11.2.2 Failure to Pay. If Tenant fails to pay Rent or any other charge required to be paid by Tenant, as and when due, and Tenant has received written notice from Landlord as to such failure to pay and does not cure such default within five (5) days after notice, Such notice shall satisfy, and not be in addition to, the notice requirement in Section 791 of the California Civil Code; or

11.2.3 Failure to Perform. if Tenant fails to perform any of Tenant's non-monetary obligations under this Lease for a period of thirty (30) days after written notice from Landlord; provided that if more time is required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion, but in no event shall Tenant have longer than one hundred twenty (120) days to cure such default. However, Landlord shall not be required to give such notice if Tenant's failure to perform constitutes a non-curable breach of this Lease. The notice required by this Subsection is intended to satisfy any and all notice requirements imposed by law on Landlord and is not in addition to any such requirement; or

11.2.4 Other Defaults. (i) If Tenant makes a general assignment or general arrangement for the benefit of creditors; (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Tenant and is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within thirty (30) days; or (iv) if substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days. If a court of competent jurisdiction determines that any of the acts described in this Subsection 11.2.4 is not a default under this Lease, and a trustee

is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the difference between the rent (or any other consideration,) paid in connection with such assignment or sublease and the rent payable by Tenant hereunder.

11.3 Default by Landlord. Landlord shall be in material default under this Lease:

11.3.1 Monetary Default. If Landlord fails to perform any of Landlord's monetary obligations under this Lease for a period of ten (10) days after written notice from Tenant; or

11.3.2 Non-Monetary. If Landlord fails to perform any of Landlord's material non-monetary obligations under this Lease for a period of thirty (30) days after written, notice from Tenant; provided that if more time is required to complete such performance Landlord shall not be in default if Landlord commences such performance within the thirty (30) day period and thereafter diligently pursues its completion, but in no event shall Landlord have longer than one hundred twenty (120) days to cure such default.

11.4 Remedies. On the occurrence of any material default by Tenant, Landlord may, at any time thereafter with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have, pursue any of the following remedies:

11.4.1 Termination of Possession. Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall have the immediate right to re-enter and remove all persons and property and such property may be removed and stored in a public warehouse or elsewhere at the cost, and for the account, of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby; and Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (i) the worth at the time of the award of all Basic Monthly Rent, Additional Rent and other charges which were earned or were payable at the time of the termination; (ii) the worth at the time of the award of the amount by which the unpaid Basic Monthly Rent, Additional Rent and other charges which would have been earned or were payable after termination until the time of the award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of the award of the amount by which the

unpaid Basic Monthly Rent, Additional Rent and other charges which would have been payable for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Premises after such default, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation or alteration of the Premises, Landlord's reasonable attorneys' fees incurred in connection therewith, and any real estate commissions or other such fees paid or payable. As used in subparts (i) and (ii) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%) per annum, or such lesser amount as may then be the maximum lawful rate. As used in subpart (iii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%). If Tenant shall have abandoned the Premises, Landlord shall have the option of (i) retaking possession of the Premises and recovering from Tenant the amount specified in this Subsection 11.4.1, or (ii) proceeding under Subsection 11.4.2; or

11.4.2 Maintenance of Possession. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due hereunder; or

11.4.3 Other Remedies. Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Premises is located.

11.5 The Right to Relet the Premises. Should Landlord elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time without terminating this Lease, make such alterations and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; upon each such reletting all rentals received by the Landlord from such reletting shall be applied, first, to the repayment of any indebtedness other than Rent due hereunder from Tenant to landlord;

second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys' fees and of costs of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment, of future Rent as the same may became due and payable hereunder. If such rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction.

11.6 Waiver of Rights of Redemption. Tenant hereby expressly waives any and all right of redemption, granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession, of the Premises, by reason of the violation by Tenant of any of the covenants or conditions of this Lease, or otherwise.

11.7 Cumulative Remedies. Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

11.8 No Waiver. No failure by Landlord to insist upon the strict performance of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. Efforts by Landlord to mitigate the damages caused by Tenant's breach of this Lease shall not be construed to be a waiver of Landlord's right to recover damages under this Section 11.8. Nothing in this Section 11.8 affects the right of Landlord to indemnification by Tenant in accordance with Section 7.2 for liability arising prior to the termination of this Lease for personal injuries or property damage.

XII
ESTOPPEL, CERTIFICATE, ATTORNMENT AHD SUBORDINATION

12.1 Subordination.

12.1.1 Landlord's Election. Landlord shall have the right to require Tenant to subordinate this Lease to any other ground lease, deed of trust or mortgage encumbering the Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded if the ground lessee, deed of trust

beneficiary or mortgagee agrees that Tenant's right to quiet possession of the Premises during the Lease Term and any Extension (as applicable) shall not be disturbed if Tenant pays the Rent and performs all of Tenant's obligations under this Lease and is not otherwise in default. If any ground lessor, beneficiary or mortgagee elects to have this Lease prior to the lien of its ground lease, deed of trust or mortgage and gives written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said ground lease, deed of trust or mortgage or the date of recording thereof.

12.1.2 Execution of Documents. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any ground lease, mortgage or deed of trust, as the case may be, and failing to do so within ten (10) business days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so.

Modification for Lender. If, in connection with (i) obtaining any construction, interim or permanent financing, or (ii) any sale of the Premises or the Real Property or any portion thereof, the lender, purchaser or ground lessor shall request reasonable modifications to this Lease as a condition to such sale, financing or refinancing, Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such modifications do not materially increase the obligations of Tenant hereunder or materially adversely affect the leasehold interest hereby created or Tenant's rights hereunder.

12.2 Attornment. If Landlord's interest in the Premises is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Premises and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession, of the Premises upon the transfer of Landlord's interest.

12.2.1 Non-Disturbance. Tenant's obligation to subordinate its interest under this Lease and to attorn to and become the tenant of a successor-in-interest to Landlord as described in Section 12.2 above shall be conditioned upon the receipt of Tenant of a written agreement executed by said successor stating that Tenant's interest in the Premises under this Lease shall not be interrupted or terminated due to such foreclosure or conveyance in lieu thereof as long as Tenant is not in default under this Lease. Landlord shall deliver to Tenant a non-disturbance agreement in form acceptable,

to Tenant; executed by the mortgagee beneficiary, or ground lesser, as the case may be, whose ground lease, deed of trust or mortgage (i) now encumbers the Premises, within sixty (60) days of the date hereof, or (ii) hereafter encumbers the Premises if such mortgagee, beneficiary or ground lessor requires that the Lease be subordinate to its mortgage, deed of trust or ground lease, simultaneously with recordation of the ground lease, mortgage or deed of trust encumbering the Premises.

12.3 Signing of Documents. Tenant shall sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination. If Tenant fails to do so within ten (10) business days after written request. Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord; the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

12.4 Estoppel Certificates.

12.4.1 Landlord's Request. Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying if true (or if not, stating why): (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been cancelled or terminated; (iii) the last date of payment of the Basic Monthly Rent and other charges and the time period covered by such payment; (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why); and (v) such other reasonable statements as may be required by Landlord or any prospective purchasers or encumbrancers including, if required, a specific description of the use being made of the Premises. Tenant shall deliver such statement to Landlord within ten (10) business days after Landlord's request. Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrancer of the Premises. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

12.4.2 Failure to Deliver. If Tenant does not deliver such statement to Landlord within such ten (10) business day period, Landlord and any prospective purchaser or encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of the Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been cancelled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's Basic Monthly Rent or other charges have been paid in advance; and (iv) that Landlord is not in default under the Lease.

12.5 Tenant's Financial Condition. Within ten (10) business days after written request from Landlord, Tenant shall deliver to Landlord such financial statements as are reasonably required by Landlord to verify the net worth of Tenant, and/or any assignee or subtenant of Tenant. In addition, Tenant shall deliver to Landlord and/or any lender or prospective purchaser of the Premises designated by Landlord, any financial statements reasonably required by such lender or purchaser to facilitate the sale, financing or refinancing of the Premises. Tenant represents and warrants to Landlord that each such financial statement is a true, accurate and complete statement as of the date of such statement. All statements shall be confidential and shall be used only for the purpose set forth herein.

XIII
LIABILITY

13.1 Landlord's Liability.

13.1.1 Landlord. As used in this Lease, the term "Landlord" means only the current owner or owners of the Real Property at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the date of transfer. However, each Landlord shall deliver to its transferee all funds previously paid by Tenant if such funds have not yet been applied under the terms of this Lease.

13.1.2 Transfers. Tenant acknowledges that Landlord intends to transfer the Real Property and all the rights and obligations associated therewith, including, without limitation, this Lease, to a limited partnership in which Lankford & Associates Inc. is the general partner ("Limited Partnership") (the "Transfer"). Tenant consents to the Transfer.

13.1.3 Written Notice. Tenant shall give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Premises whose name and address have been, furnished to Tenant in writing. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure such non-performance within thirty (30) days after receipt of Tenant's notice. However, if such non-performance reasonably requires more than thirty (30) days to cure, Landlord shall not be in default if such cure is commenced within such thirty (30) day period and is thereafter diligently pursued to completion.

13.2 Tenant's Liability. Notwithstanding anything to the contrary contained herein, the officers and/or directors of Tenant shall not be personally liable for Tenant's obligations under this Lease and shall not be sued or named as a party in any suit or action related to Tenant's obligations under this Lease (except as may be necessary to secure jurisdiction of Tenant).

XIV
LEGAL COSTS

14.1 Legal Proceedings.

14.1.1 Costs. Tenant shall reimburse Landlord, upon demand, for any costs or expenses incurred by Landlord in connection with any breach or default of Tenant under this Lease, whether or not suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorneys' fees and costs. Such attorneys' fees and costs shall be paid by the losing party in such action.

14.1.2 Indemnification. Tenant shall also indemnify Landlord against and hold Landlord harmless from all costs, expenses, demands and liability incurred by Landlord if Landlord becomes or is made a party to any claim or action (i) instituted by Tenant, or by any third party against Tenant (except if the claim against Tenant arises solely out of acts of Landlord), or by or against any person holding any interest under or using the Premises by license of or lease with Tenant, (ii) for foreclosure of any lien for labor or material furnished to or for Tenant or such other person, (iii) otherwise arising out of or resulting from any act or transaction of Tenant or such other person, or (iv) necessary to protect Landlord's interest under this Lease in a bankruptcy proceedings, or other proceeding under Title 11 of the United States Code, as amended. Tenant shall defend Landlord against any such claim or action at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such claim or action. Notwithstanding anything to the contrary contained in this Section 14.1.2, the foregoing indemnity shall not apply to any cost, expenses, demands or liabilities incurred by Landlord and Tenant in which Tenant is the prevailing party.

XV
OPTION TO LEASE

15.1 Option to Lease. Landlord currently has the option to purchase the real property located in the City of San Diego, County of San Diego, State of California, more particularly described as Lots 18 and 20 of Subdivision Map No. 12485 filed in the Office of the County Recorder of San Diego County on July 23, 1991, and now known as Parcels 5 and 4, respectively, of the Parcel Map defined in Section 1.4.1 above ("Option Property"), from Chevron, under the terms of two separate certain Option Agreements (one as to Parcel 5/Lot 18, and one as to Parcel 4/Lot 20) between Chevron, as optionor, and Landlord, as optionee, each dated as of December 23, 1994.

15.2 Grant of Option. Tenant shall have the option to lease ("Lease Option") all or a portion of the Option Property on substantially the same terms and conditions of the Lease including, without limitation, (i) the rental rate per gross square foot of building area in effect under the Lease as of the commencement date of the Lease Option (provide, however, that the rental rate shall be adjusted upward after giving appropriate consideration to the economic variables effecting rent, including, for example, the prevailing interest rate at the time of exercise of the Lease Option, and the prevailing purchase price under the Option Agreements) (ii) Landlord's obligation to construct the Building Shell and Landlord's Improvements on the Option Property at Landlord's sole cost and expense (in accordance with the Work Letter), and (iii) Landlord's obligation to construct the Tenant Improvements and provide the Tenant Improvement Allowance (in accordance with the formula described in the Work Letter).

15.3 Exercise of Option. Tenant may elect to exercise the Lease Option by delivering to Landlord written notice of its exercise of the Lease Option ("Notice of Exercise") on or before October 15, 1997. As a condition of the effectiveness of the Notice of Exercise, Tenant shall, no later than August 15, 1997, deliver a written notice to Landlord of Tenant's intention, to exercise the Lease Option ("Notice of Intent"). The Notice of Intent shall set forth the amount of gross square feet of the Option Property that Tenant intends to lease ("Additional Premises") the proposed configuration of the buildings and other improvements to be constructed on the Additional Premises, and the outside date by when the Additional Premises, with the improvements substantially completed thereon, must be delivered to Tenant for occupancy ("additional Premises Delivery Date"). Within ten (10) days after Landlord's receipt of the Notice of Intent, Landlord and Tenant shall meet in a good faith effort to negotiate and execute within thirty (30) days thereafter a letter of intent ("Letter of Intent") containing all of the material terms and conditions of a

lease for the Additional Premises ("Additional Premises Lease") including, without limitation, the rental rate for the Additional Premises, the configuration of the Additional Premises, and the Additional Premises Delivery Date. Thereafter, Tenant may, but is not obligated to, in its sole and absolute discretion, deliver its Notice of Exercise to Landlord as described above.

15.4 Landlord's Purchase. If Tenant delivers the Notice of Exercise as described in Section 15.2 above, Landlord shall exercise its option to purchase all or a portion of the Option Property, as the case may be, from Chevron such that Landlord is able to deliver the Additional Premises to Tenant with the improvements thereon substantially completed on or before the Additional Premises Delivery Date, or such other date mutually agreed to in writing by Landlord and Tenant.

15.5 Additional Premises Lease. If Tenant delivers the Notice of Exercise, Landlord and Tenant shall, within sixty (60) days after execution of the Letter of Intent, execute and deliver to each other the Additional Premises Lease which shall reflect the terms and conditions of the Letter of Intent. In addition, the Additional Premises Lease shall contain substantially the same terms and conditions as provided in this Lease, including without limitation, the representations and warranties as to environmenta1 matters. If Tenant fails to timely deliver the Notice of Exercise, Landlord shall have the right to lease the Option Property to another party.

15.6 Memorandum of Option and Option Assignment. Concurrently with the execution of this Lease, the parties shall execute and acknowledge, in recordable form a Memorandum of Lease Option in the form attached hereto as Exhibit "F". Landlord shall use its best efforts to have Chevron execute the Assignment of Option and Consent to Assignment (the "Option Assignment") covering Landlord's option to purchase from Chevron, in the form attached hereto as Exhibit "G" within sixty (60) days of the Effective Date. Landlord and Tenant shall execute the Option Assignment after Chevron executes the same. Tenant shall, at its option, immediately thereafter cause the Memorandum and the Option Assignment to be recorded in the Official Records of San Diego County at Tenant's sole cost and expense.

XVI
RIGHT OF FIRST REFUSAL TO PURCHASE

16.1 Right of First Refusal. If at any time after the Transfer (defined in Section 13.1.2), a bona fide offer for the purchase of the Real Property is made to Landlord, which offer Landlord in good faith intends to accept, then, provided Tenant is not then in default hereunder, landlord shall send Tenant notice

("Transfer Notice") of such offer. The Transfer Notice shall state the price, terms and conditions of the proposed transaction, and the identity of the proposed purchaser.

16.2 Effect of Transfer Notice. Delivery of the Transfer Notice to Tenant shall be deemed to be an offer by Landlord to sell the Real Property to Tenant. The offer contained in the Transfer Notice may be accepted within five (5) working days following the date of delivery of the Transfer Notice to Tenant ("Offer Period") and may not be withdrawn by Landlord within the Offer period. Pursuant to the offer, Tenant shall have the right to purchase the Real Property on the terms and conditions stated in the Transfer Notice.

16.3 Acceptance of Offer. On or before the last day of the Offer Period, Tenant shall deliver to Landlord notice of its acceptance or rejection of the offer. Delivery of a notice of acceptance to Landlord by Tenant shall create a binding contract between Landlord and Tenant, Tenant's failure to timely deliver such notice shall be deemed a rejection of Landlord's offer.

16.4 Closing. The closing of the transfer of the Real Property from Landlord to Tenant shall be at such time and place as may be agreed to in writing by Landlord and Tenant. If Landlord and Tenant are not able to agree, the closing shall occur offices of Landlord at 10:00 a.m. on the sixtieth (60th) business day following the expiration of the Offer Period or such later date as set forth in the Transfer Notice. At the closing, Landlord shall deliver to Tenant all documents reasonably requested by Tenant to evidence transfer of the Real Property, and Tenant shall deliver to Landlord cash (or certified or cashier's check for the amount of the cash consideration) and any promissory notes to be paid by Tenant for the Real Property. Landlord and Tenant each shall execute and deliver such other documents as may reasonably be requested by the other in connection with the transaction contemplated by this Article XVI.

16.5 Release of Real Property. In the event that Tenant shall not elect to purchase the Real Property pursuant to the provisions of Section 16.1 through 16.3 above, Landlord may sell the Real Property to the proposed transferee on the terms and conditions contained in the Transfer Notice. During the period commencing with substantial completion of the Phase II Premises and ending on the third anniversary thereof (the "Ongoing Rights Period"), if such transfer is not consummated, the provisions of Sections 16.1 through 16.3 shall again apply to any proposed sale of the Real Property. After the Ongoing Rights Period, once Landlord has delivered a Transfer Notice, then if Tenant shall not elect to purchase the Real Property pursuant to this Article XVI, then Tenant's rights under this Article XVI shall terminate. If Tenant

exercises its rights hereunder and delivers a notice of acceptance but fails to complete the purchase of the Real Property solely due to Tenant's default, then Tenant's rights under this Article XVI shall terminate.

16.6 Failure to Sell. During the Ongoing Rights Period, If Landlord fails to sell the Real Property within six (6) months after having delivered the Transfer Notice to Tenant, then, prior to any sale thereof, Landlord shall once again notify Tenant of any bona fide offer to purchase the Real Property and the aforesaid procedure shall be repeated.

16.7 Landlord's Successors. Upon any sale of the Real Property as provided herein, the rights of Tenant under this Article shall continue as restricted herein so that any Landlord shall be bound hereby; that is, so long as such sale has occurred during the Ongoing Rights Period. Upon any transfer of the Real Property by trustee's sale, judicial foreclosure, or deed in lieu thereof, Tenant's rights under this Section 16 shall terminate.

XVII
RIGHT OF FIRST OFFER TO PURCHASE

17.1 Landlord's Offer. If at any time during the Lease Term, Landlord shall desire to sell the Real Property, then, provided that Depotech Corporation shall be the Tenant hereunder and provided Tenant is not then in default hereunder, Landlord shall offer ("Landlord's Offer") to sell the Real Property to Tenant prior to offering the same to any other individual or entity other than a subsidiary or affiliate of Landlord. Landlord's Offer shall be in writing and shall set forth the terms and conditions upon which the Real Property is to be sold. The foregoing notwithstanding if Landlord notifies Tenant that Landlord intends to sell the Real Property as provided in this Section 17.1 and Tenant does not express the desire to purchase the Real Property by written notice within ten (10) days of Landlord's notice, in accordance with the terms hereof, Tenant shall not have the right of first refusal provided in Article XVI on any subsequent offer resulting from Landlord's desire to sell the Real Property within a nine (9) month period following Tenant's receipt of Landlord's Offer except as provided in Section 17.4 below.

17.2 Letter of Intent. Within thirty (30) days after delivery by Landlord to Tenant of Landlord's Offer, if Tenant desires to purchase the Real Property in accordance with the terms of Landlord's Offer, Landlord and Tenant shall endeavor in good faith to draft, execute and deliver to each other a mutually satisfactory letter ("Letter of Intent") setting forth Tenant's intention to purchase the Real Property.

17.3 Termination of Right. If (i) the Letter of Intent is not drafted, executed and delivered as aforesaid, or (ii) the Letter of Intent is drafted, executed and delivered as aforesaid, but a contract of sale for the Real Property which is mutually satisfactory to both Landlord and Tenant, is not executed and delivered (together with any payment required to be made thereunder by Tenant to Landlord) to each other within thirty (30) days after execution and delivery of the Letter of Intent, or (iii) Tenant advises Landlord that it does not desire to purchase the Real Property, then Landlord shall be free to sell the Real Property to any other individual or entity, except as provided herein.

17.4 Offer to Tenant. If, after the occurrence of any of the events set forth in clauses (i), (ii), or (iii) of Section 17.3 above, Landlord proposes to sell the Real Property for a purchase price less than ninety-five percent (95%) of the purchase price set forth in Landlord's Offer, then, subject to the provisions of Section 17.5 hereof, Landlord shall deliver to Tenant any letter of intent or contract proposed to be entered into by Landlord with any such prospective purchaser, and Tenant shall thereupon have ten (10) days in which to agree to purchase the Real Property on the terms and conditions of any such letter of intent or contract and consummate the sale of the Real Property in accordance with the terms thereof.

17.5 Failure to Sell. If Landlord fails to sell the Real Property within nine (9) months after having delivered Landlord's Offer to Tenants then, prior to any sale thereof, Landlord shall once again offer the Real Property to Tenant and the aforesaid procedure shall be repeated.

17.6 Landlord's Successors. Upon any sale of the Real Property as provided herein, the rights of Tenant under this Article shall continue as restricted herein, so that any Landlord hereunder shall be bound hereby; provided, however, that Tenant's rights under this Section 17 shall automatically terminate upon any trustee's sale, judicial foreclosure, or deed in lieu thereof.

XVIII
MISCELLANEOUS PROVISIONS

18.1 Severability. A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

18.2 Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease, whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the terms "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises with Tenant's expressed or implied permission.

18.3 Incorporation of Prior Leases; Modifications. This Lease is the only lease between the parties pertaining to the lease of the Premises and no other Leases are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

18.4 Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered to the address specified in Section 1.3 above, except that upon Tenant's caking possession of the Premises, the Premises shall be Tenant's address for notice purposes. Notices to Landlord shall be delivered to the address specified in Section 1.2 above. All notices shall be effective upon personal delivery or three (3) days after deposit in the U.S. Mail, certified. Either party may change its notice address upon written notice to the other party.

18.5 Waivers. All waivers must be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any ether provision of this Lease in the future. No statement on a payment check frown Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of such statement.

18.6 No Recordation. Tenant shall not record this Lease without prior written consent from Landlord. However, Tenant may require that a memorandum of this Lease in the form of Exhibit "G" be executed by both parties and recorded.

18.7 Binding Effect; Choice of Law. This Lease binds any party who legally acquires any rights or interest in this Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the state of California shall govern this Lease.

18.8 Corporation Authority; Partnership Authority . If Tenant is a corporation, each, person signing this Lease en behalf of Tenant represents and warrants that he has full authority to do so and that this Lease binds the corporation. Upon execution of this Lease, Tenant shall deliver to Landlord a certified copy of a resolution of Tenant's Board of Directors authorizing the execution of this Lease or other evidence of such authority reasonably acceptable to Landlord. If Tenant is a partnership, each person signing this Lease for Tenant represents and warrants that he is a general partner of the partnership, that he has full authority to sign for the partnership and that this Lease binds the partnership and all general partners of the partnership. Tenant shall give written notice to Landlord of any general partner's withdrawal or addition. Within five (5) days after this Lease is signed, Tenant shall deliver to Landlord a copy of Tenant's recorded statement of partnership or certificate of limited partnership.

18.9 Force Majeure. If Landlord cannot perform any of its obligations due to events beyond Landlord's control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. If Tenant cannot perform any of its non-monetary obligations due to events beyond Tenant's control, the time provided for performing such obligations shall be extended for a period of time equal to the duration of such events, provided that Tenant gives notice of the occurrence of such events within ten (10) days of the date upon which Tenant has or reasonably should have had notice of such an event. Events beyond a party's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

18.10 No Option. The submission of this Lease for examination does not constitute a reservation, of or option to lease the Premises and this Lease becomes effective only upon execution and delivery thereof by Landlord and Tenant.

18.11 Standards of Measurement. Any reference in this Lease to "rentable square feet" shall mean and refer to the standards for measurement promulgated by the Building Office Management Association ("BOMA").

18.12 Time of the Essence. Time is of the essence in each and every term and provision in this Lease.

[SIGNATURES ON THE FOLLOWING PAGE]

[SIGNATURE PAGE TO
TORREY PINES SCIENCE CENTER
Industrial Real Estate Lease]

LANDLORD:

LANKFORD & ASSOCIATES, INC. a
Colorado corporation

By: /s/ (illegible)
Its: (illegible) /CEO

Signed on Dec. 8, 1994
at San Diego.

TENANT:

DEPOTECH CORPORATION, a California corporation

By: /s/ (illegible)
Its Pres/CEO

Signed on Dec. 8, 1994
at San Diego.

PARCEL MAP NO. 17448

SHEET 2 OF 2 SHEE

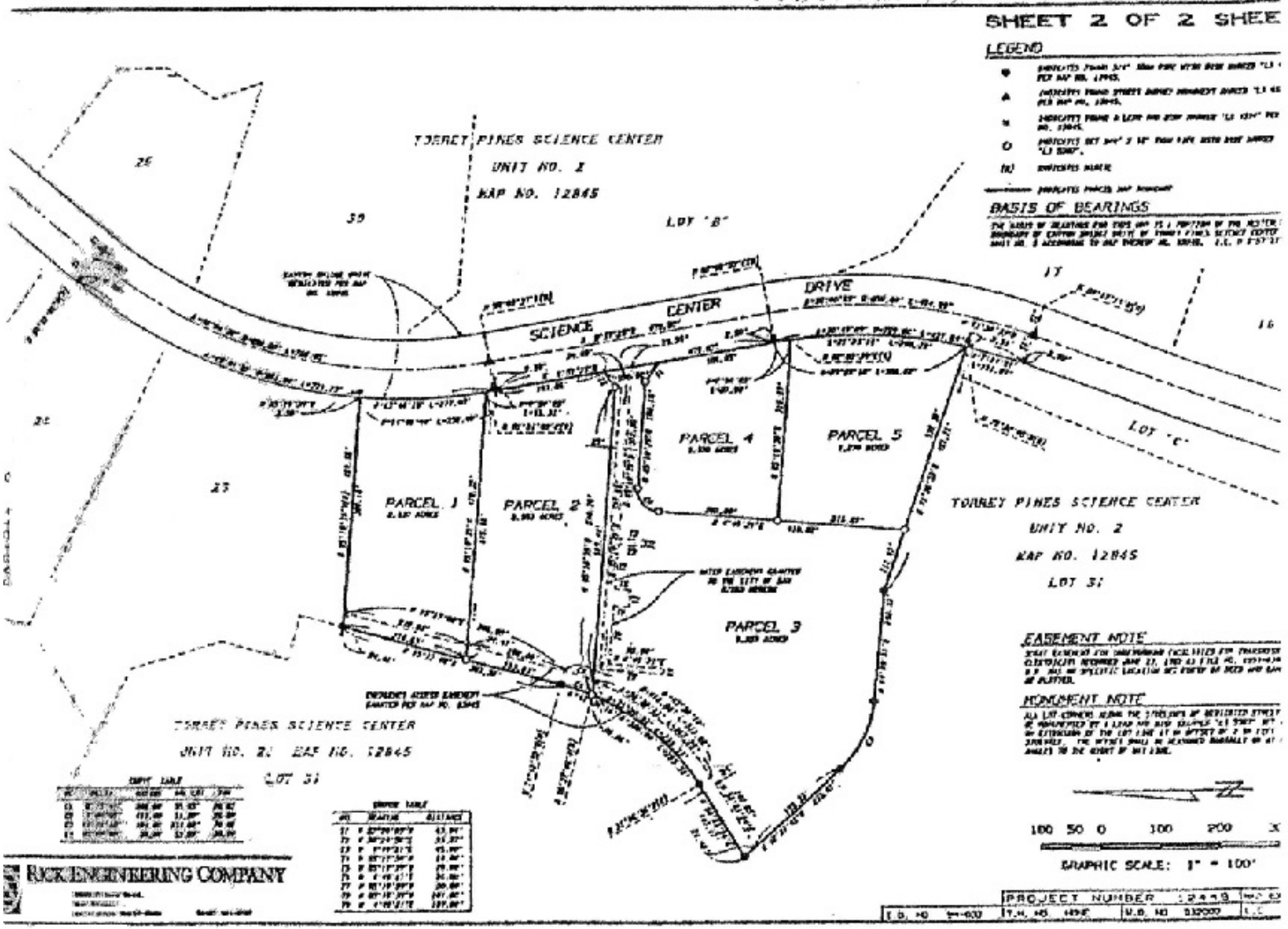

EXHIBIT "B"

Confirmation of Gross Area

This Confirmation of Gross Area is made by and between the Landlord and Tenant named below, who agree as follows:

1. Landlord and Tenant entered into an Industrial Real Estate Lease dated December _____, 1994, in which Tenant agreed to lease from Landlord and Landlord agreed to lease to Tenant the premises described in Section 1.5 of the Lease (the "Premises").

2. Pursuant to Section 1.5.1 of the Lease, the parties hereby confirm that the Gross Area of Phase I/Phase II of the Premises is _____square feet.

3. Tenant confirms that it has accepted possession of Phase I/Phase II of the Premises and the Lease is in full force and effect.

LANDLORD:

LANKFORD & ASSOCIATES, INC. a Colorado corporation

By: _____

Its: _____

Signed on _____, 199__
at _____.

TENANT:

DEPOTECH CORPORATION, a California corporation

By: _____

Its: _____

Signed on _____, 199__
at _____.

EXHIBIT "C"

WORK LETTERS AGREEMENT

Simultaneously with execution of this Work Letter Agreement ("Agreement"), the parties hereto, LANKFORD & ASSOCIATES, INC., a Colorado corporation, as "Landlord," and DEPOTECH CORPORATION, a California corporation, as "Tenant," are entering into that certain Torrey Pines Science Center Industrial Real Estate Lease (hereinafter called the "Lease") to which this Agreement is attached. The purpose of this Agreement is to delineate the responsibilities of the Landlord and Tenant with respect to the design and construction of the Premises. Except as otherwise provided herein, the capitalized terms used in this Agreement shall have the same meaning as given to them in the Lease.

1. Construction of Building Shell and Other Improvements by Landlord . Landlord, at Landlord's sole cost and expense, and not as part of the Tenant Improvement Allowance (as defined below) , shall:

1.1 Construct or cause to be constructed on the Real Property, a building shell consisting of a slab, exterior walls, roof and plumbing rough-ins ("Building Shell"). The Building Shell shall be precast concrete panels on a structural steel frame designed for one hundred (100) pounds per square foot floor live load;

1.2 Construct or cause to be constructed on the Real Property, service pads exterior to the Building Shell to be utilized for cryogenic tanks, DI water systems, trash enclosures, Hazardous Materials staging, HVAC equipment enclosures and other related services (collectively, "Peripheral Pads");

1.3 Construct or cause to be constructed within the Building Shell the following improvements; (i) a fire sprinkler system and loop adaptable for the ceiling drops, (ii) a passenger/freight elevator, and (iii) two (2) dock high loading areas offering convenient access for truck delivery;

1.4 Construct or cause to be constructed all improvements and perform all work on and off the Real Property required under the Declaration;

1.5 Construct or cause to be constructed a one hundred three (103) car parking structure and a surface parking lot consisting of one hundred thirty-two (132) parking spaces (collectively, "Parking Structures");

1.6 Provide and install all landscaping within the Real Property;

1.7 Provide and install (a) stubouts for natural gas and plumbing to within five (5) feet of the exterior of the Building at final connection points reasonably agreed to by Landlord and Tenant, and (b) telephone conduits to the central telephone room in the interior of the Building; and

1.8 Provide and install electrical capacity to the Premises of up to four thousand (4,000) amps, and install and connect said electrical capacity to main service disconnect in-house switch gear, including four hundred eighty (480) volt three (3) phase electrical service, in Tenant's central electrical room in the location shown on the Plans (as hereinafter defined).

The work described in Sections 1.2 - 1.8 above is hereinafter collectively referred to as "Landlord's Work".

2. Shell Plans. Landlord shall contract with an architect reasonably approved by Tenant ("Landlord's Architect") for preparation of the plans and specifications for the construction of the Building Shell and Landlord's Work. As noted in Section 1.5 of the Lease, Landlord and Tenant have mutually approved the preliminary plans and specifications for the construction of the Building Shell and Landlord's Work prepared by Davis Architects, dated November 21, 1994, which are referred to herein as the Preliminary Shell Plans. Landlord shall deliver to Tenant the final detailed working drawings and specifications (the "Final Drawings") for Landlord's Work and the Building Shell by December 21, 1994. On or before December 27, 1994, Tenant shall deliver notice of approval or reasonable disapproval of the Final Drawings to Landlord. If Tenant disapproves such Final Drawings, Tenant shall specify the reasons for its disapproval. Thereafter, the parties shall meet on or before December 30, 1994, in an effort to reach an agreement on the Final Drawings. The Preliminary Shell Plans and Final Drawings are hereinafter referred to as the "Shell Plans."

3. Tenant Improvements. All work to be performed pursuant to the Final Plans described in Section 5 below shall be referred to as the "Tenant Improvements." The Tenant Improvements shall be completed by Landlord, at Landlord's sole cost and expense, subject to Tenants obligation to pay all amounts in excess of the Tenant Improvements Allowance described in Section 8 below in accordance with the terms and conditions of this Agreement and the Tenant's Plans described below.

4. Tenant Preliminary Plans. Tenant shall contract with an architect reasonably approved by Landlord ("Tenant's Architect") for preparation of the space planning, architectural and engineering drawings, and plans and specifications for the construction of

the Tenant Improvements. Tenant shall also contract with a "process engineer" reasonably approved by Landlord ("Engineer") for preparation of the plans for Tenant's manufacturing component of the Tenant Improvements. Tenant shall cause Tenant's Architect to develop general space plans showing Tenant's proposed layout for the Building. As noted in Section 1.5 of the Lease, all of the plans, drawings and specifications referenced in the foregoing sentence have been mutually approved by Landlord and Tenant as evidenced in chose plans prepared by Ehrlich Rominger dated November 23, 1994, and are referred to as the "Preliminary Plans".

5. Final Plans. Tenant shall submit to Landlord for its review and approval complete detailed marking drawings and specifications for the Tenant Improvements prepared or caused to be prepared by Tenant's Architect and/or Engineer by January 25, 1995, for the Phase I Premises and by May 15, 1995 for the Phase II Premises, which shall reflect partitions, doors, electrical and telephone outlets, light fixture locations, wall finishes, cabinet and other carpentry work, floor and ceiling coverings and any ether requirements of Tenant with respect to the interior improvements to the Building, and shall include a list of additions to, or alterations of the Building which Tenant wishes to remove upon the termination of the Lease (the "Final Plans"). The Final Plans shall be designated as "Final Plans" and initialed by Tenant. The Preliminary Plans and Final Plans are sometimes collectively referred to herein as "Tenant's Plans." Landlord acknowledges that Tenant shall phase the construction of the Tenant Improvements (in two (2) phases only, one for the Phase I Premises and one for the Phase II Premises), and that Tenant shall submit Preliminary Plans and Final Plans for each phase, Landlord shall deliver to Tenant written notice either approving or reasonably disapproving the Final Plans on or before January 30, 1995 for the Phase I Premises and by May 19, 1995 for the Phase II Premises. If Landlord disapproves of such Final Plans, Landlord shall specify the reasons for its disapproval. Thereafter, the parties shall meet on or before February 2, 1995 for the Phase I Premises and on or before May 24, 1995 for the Phase II Premises in an effort to reach an agreement on the Final Plans.

6. Project Schedule. Schedule 1 attached hereto and made a part hereof is a schedule of certain dates and time frames relating to construction and development of the Premises, including the dates set forth in this Work Letter for Landlord's and Tenant's respective obligations concerning construction of the Premises ("the "Project Schedule"). The purpose of the Project Schedule is to evidence the parties intention to be obligated to pursue and complete construction of the Premises in accordance with said schedule.

7. Landlord's Construction.

7.1 Landlord shall furnish all labor and materials to construct and complete in a good, expeditious and workmanlike manner to the reasonable satisfaction and approval of Tenant the work described in the Shell Plans ("Landlord's Improvements") and in Tenant's Plans ("Tenant Improvements") (Landlord's Improvements and Tenant Improvements are referred to herein collectively as the "Improvements"). Landlord will enter into a cost plus/guaranteed maximum price contract consistent with the parties determination of Final Cost in accordance with Section 8.1 below, with a general contractor reasonably approved by Tenant (the "Contractor") as the general contractor for the construction, of the Improvements. Tenant hereby consents to Hensel Phelps Construction Company as the Contractor. Following execution of the construction contract with the Contractor, Landlord shall cause the Contractor to file with the appropriate departments of all governmental authorities with jurisdiction over the Real Property, the Shell Plans and Tenant's Plans (collectively, the "Plans") and to submit such other information and materials as may be required by such governmental authorities for their approval of the Improvements. Upon, receipt of all necessary governmental approvals for the construction of Improvements, Landlord shall cause the Contractor to commence and diligently proceed with the construction of the Improvements in accordance with the Plans and all applicable governmental laws, regulations and requirements. Landlord and Tenant will meet on at least a weekly basis to discuss the progress of the Improvements. Tenant's Architect shall have access to the Premises during construction of Improvements at all times during normal business hours for purposes of inspection. Landlord also agrees that Tenant shall be granted periodic access for the purpose of inspecting construction progress. In connection with such periodic access, Tenant agrees that, to the extent permitted by law, Landlord and its principals shall not be liable in any way for injury or death to any person or persons or loss or damage to property located in the Premises. Tenant expressly agrees that none of its agents, contractors, workmen, mechanics, suppliers or invitees shall enter the Premises prior to the Commencement Date unless and until each of them shall furnish to Landlord reasonably satisfactory evidence of insurance coverage, financial responsibility and other appropriate information.

7.2 Landlord shall use its best efforts to substantially complete the Improvements as expeditiously as possible. The parties agree that the Building Shell, Landlord's Work and the Tenant Improvements for the Phase I Premises shall be substantially complete by August 1, 1995, and the Tenant Improvements for the Phase II Premises shall be substantially complete by March 1, 1996.

7.3 If at any time prior to issuance of a certificate of occupancy or similar entitlement for use of the Premises, Tenant shall determine that the Improvements are not being constructed substantially in accordance with the Plans, Tenant may deliver

written notice to Landlord specifying in detail the particular deficiency, omission, or other manner in which construction has not been substantially completed in accordance with the Plans. Upon receipt of any such notice, Landlord shall notify Tenant if it disagrees with Tenant's determination and if so the parties shall meet within two (2) days in a good faith effort to resolve the disagreement. If Landlord and Tenant cannot come to an agreement the dispute will be determined by arbitration, conducted under the rules of the American Arbitration Association. If Landlord does not disagree with Tenant or the above meeting results in resolution of the disagreement, Landlord shall take all steps necessary at Landlord's sole cost and expense to correct any deficiencies, omissions or defects.

7.4 Upon substantial completion of the Improvements (or the two phases of Tenant Improvements thereof), Tenant shall conduct a "walk through" with Landlord in order to ascertain if such Improvements comply with the Plans and this Agreement. If Tenant reasonably determines that the Improvements do not comply with the Plans and this Agreement, then a "punch list" will be prepared by Tenant indicating such deviations, and Landlord shall correct at its sole cost those items noted on the punch list which are not in compliance with the Plans and this Agreement. Landlord shall complete ("final completion" or finally complete) the finishing details of construction and the punch list items for the Improvements according to the Plans and this Agreement within thirty (30) days after substantial completion of Landlord's Improvements and the Tenant Improvements for Phase I, and within forty-five (45) days after substantial completion of the Phase II Tenant Improvements. If Tenant and Landlord cannot agree upon whether or not the items of the punch list reflect compliance or noncompliance with the Plans and this Agreement; then the compliance or noncompliance of the Improvements shall be determined by a neutral arbitrator who shall be an architect in accordance with the Commercial Rules of the American Arbitration Association.

7.5 If Landlord shall be delayed in substantially completing the Improvements, and such delay shall be caused by, or result from any of the following ("Tenant's Delays");

1. any Tenant requested change to the approved Plans to the extent any delay is not caused by Landlord's failure to act upon or process any such request in a reasonably diligent manner. Landlord's failure to adhere to applicable law in existence at the time of entering into this Lease or Landlord's defective work;
2. any errors or omissions in the Tenant's Plans;

3. Tenant's failure to adhere to the dates for delivery, response or other actions as set forth in this Work Letter; and

4. Tenant's failure to provide in a timely fashion the long-lead items integral to Landlord's performance of the construction contemplated by Tenant's Plans, for which Tenant bears responsibility for ordering and/or supplying the same, including, for example, Tenant's equipment that is being installed by Landlord,

then the Commencement Date shall be deemed to be the date upon which the Commencement Date would have occurred but for such Tenant's Delay, and the dates for substantial completion of the two phases of Tenant Improvements set forth in Section 7.2 hereof, shall be extended one day for each day of Delay caused by Tenant's Delays. The parties hereby agree that the foregoing adjustments as to the Commencement Date and the dates for substantial completion shall only be made to the extent that any of the foregoing Tenant's Delays shall actually delay completion of the Premises in accordance with, the Project Schedule on a net basis. That is, for example, if an error in the Tenant's Plans does not delay Landlord's progress, or if such error does delay progress but such delay is recouped by earlier completion on another aspect of the Project, then the adjustments to the Commencement Date and the dates for substantial completion shall be unnecessary. If the parties are unable to agree on whether or not the Tenant's Delay resulted in an actual delay of the anticipated Commencement Date, then the matter shall be resolved by neutral arbitrator in accordance with Section 7.4 above.

7.6 Landlord covenants to comply with all terms of any financing obtained to pay for the Landlord's Improvements (provided that Tenant performs all obligations hereunder necessary for Landlord to comply with such financing) and to service all debt associated therewith.

8. Landlord's Contribution to the Tenant Improvements Costs.

8.1 Tenant Improvement Allowance. Landlord and Tenant reasonably anticipate that the total cost of the Tenant Improvements will not exceed Nine Million One Hundred Thousand and No/100 Dollars ($9,100,000). The parties acknowledge that such figure is an estimate only. Within ten (10) business days after the parties' agreement as to the form of the drawings, plans and specifications, which shall constitute the Final Plans, Landlord shall prepare an analysis in its sole judgment of the cost of construction of the Tenant Improvements according to the Final Plans, including payment of a fee to the Contractor (the "Final Cost"). Within three (3) business days after receipt of the statement of Final Cost, Tenant

shall deliver to Landlord written notice of approval or disapproval of the same; however, if Tenant requires additional information regarding the Final Cost, Landlord shall promptly supply same and Tenant shall have a reasonable additional time period, not to exceed an additional two (2) business days to either approve or disapprove the Final Cost. If Tenant disapproves such Final Cost, Tenant shall specify the reasons for its disapproval. Thereafter, the parties shall meet on or before two (2) business days after Tenant's notice of disapproval, in an effort to reach an agreement on the Final Cost. If the parties are unable to agree on the Final Cost, then Landlord's sole obligation shall be to provide the Landlord's Improvements and the Tenant Improvement Allowance specified below. Landlord shall provide Tenant with a sum equal to EIGHTY-NINE AND 64/100 DOLLARS ($89.64) per gross square foot of the Building, but not to exceed SEVEN MILLION THREE HUNDRED EIGHTY-FIVE THOUSAND TWO HUNDRED TWENTY-FIVE AND NO/100 DOLLARS ($7,385,225) for the Tenant Improvements ("Tenant Improvement Allowance"). The Tenant Improvement Allowance shall be used by Tenant to pay all Tenant Improvement costs including, but not limited to, fees payable to the the Contractor (as defined below), and all costs and expenses incurred in planning, preparing, constructing and installing the Tenant Improvements, including permits, fees, utility meters, and fees and costs paid to the Tenant's Architect and Engineer (collectively, "Tenant Improvement Costs"). Tenant shall pay any excess Tenant Improvement Costs over the Tenant Improvement Allowance ("Tenant's Share"), as follows: eighty-five percent (85%) of Tenant's Share shall be payable on or before January 1, 1996, and the remaining fifteen percent (15%) upon completion of the punch-list items for the Phase II Premises.

8.2 Tenant shall provide Landlord, on January 15, 1995, and on or before the first day of each, month thereafter, commencing February 1, 1995, and continuing until the later of (i) January 1, 1996, or (ii) that date on which the first 85% of Tenant's Share has been paid as provided in Section 8.1 above, documentation (the "Cash Evidence") reasonably satisfactory to Landlord evidencing Tenant's cash, (meaning cash on deposit at its depository institution) of not less than Five Million and No/100 Dollars ($5,000,000) (the "Cash Threshhold") . Should Tenant's Cash Evidence for any one month indicate a value less than the Cash Threshhold, then Tenant shall, within three (3) business days following written demand therefore by Landlord, deposit with Landlord, at Tenant's sole cost and expense, an irrevocable, unconditional letter of credit issued by an institution reasonably satisfactory to landlord, in favor of Landlord (the "Letter of Credit") in the amount of One Million and No/100 Dollars ($1,000,000), and valid for a period of one (1) year, but having an automatic renewal. The form of sight draft to be utilized by Landlord in connection with the Letter of Credit shall be subject to the approval of Landlord, which shall not be unreasonably withheld. Upon Tenant's failure to deliver all or any

portion of Tenant's Share as and when provided in Section 8.1 above, Landlord shall be entitled to unconditionally draw upon the Letter of Credit up to the full stated amount thereof and apply the proceeds of such draw to the obligations for Tenant's Share provided in Section 8.1 above, and the remainder, if any, to Landlord's actual out of pocket costs and expenses and any ether damages or penalties incurred as a result of Tenant's failure to so pay Tenant's Share. If at any time following delivery of the Letter of Credit Tenant's monthly Cash Evidence evidences an amount equal to or greater than the Cash Threshhold, then Tenant shall be entitled to request, by written notice to Landlord, the surrender of the Letter of Credit; provided, however, that any such surrender shall not waive, diminish or abrogate Landlord's right to require delivery of the Letter of Credit at any future time at which the Cash Evidence shall again evidence less than the Cash Threshhold.

9. Changes or Additions to the Plans.

9.1 Any changes to the Plans desired by Tenant subsequent to the approval of the Plans by both parties shall be requested of Landlord in writing by Tenant. Provided such changes are generally harmonious with the Plans and are in conformance with governmental regulations and requirements, Landlord agrees to use commercially reasonable efforts to incorporate plan changes requested in writing by Tenant and to notify Tenant immediately of any cost increase or potential delay caused by such changes. Tenant shall be responsible for any increase in cost due to Tenant's requested changes. If the proposed changes will increase the cost of the Improvements, Landlord shall notify Tenant of any such increase and Tenant may choose to cancel its requested changes. Any delay in substantial completion of the Improvements resulting from material changes requested by Tenant shall, to the extent such delay is not caused by Landlord's failure to act upon or process any such request in a reasonably diligent manner, automatically extend on a per day basis the completion and delivery deadline described in Section 7.2 hereof, and the Commencement Date shall remain as that date which would otherwise have been the Commencement Date but for said change in the Plans. All disputes as to the effect of any such changes shall be resolved by arbitration in accordance with Sections 7.4 and 7.5 above.

9.2 Landlord shall notify Tenant in writing of any material modifications to the Plans and the Improvements required by any governmental department with the authority to approve the Plans and such required modifications. In addition, Landlord shall inform Tenant of any changes to the Plans that it requests following the approval of the Plans in accordance with Section 2 hereof. Tenant shall have the right to approve any changes to the Plans requested by Landlord after approval of the Plans. If any changes are required by either the governmental department or Landlord, the

cost of such change or changes shall be paid by Landlord unless the changes are required due to laws that went into effect after approval of the Plans in which case the cost thereof shall be paid in accordance with Section 8.1 above. The foregoing notwithstanding, the parties acknowledge and agree that during the course of construction of a commercial project such as the Premises, minor changes to the Plans are made on a routine basis, and so long as such minor changes do not materially or detrimentally alter the Plans as approved by Tenant, it shall be unnecessary for Landlord to obtain Tenant's approval before making and implementing such changes.

9.3 If either during or after construction of the Improvements, changes are required to be made to the Improvements either to bring them into compliance which code requirements or because all necessary permits were not properly obtained, upon notice from the appropriate governing authority. Landlord shall, at its sole cost and expense, make all such required changes and complete all actions necessary to satisfy the requirements of the governing authority unless the changes are required due to laws that want into effect after the approval of the Plans, in which case the cost thereof shall be paid in accordance with Section 8.1 above.

9.4 Whenever possible, disputed issues shall be resolved by prompt communication between the representatives of Landlord and Tenant who are directly involved in the disputes. No materials may be substituted by Landlord in the Improvements without the prior written approval of Tenant. Tenant's employees shall have the right to participate in all meetings regarding the construction of the Improvements.

10. Failure to Complete Landlord's Improvements. If Landlord fails, within thirty (30) days following written notice from Tenant, to comply with Landlord's obligation to complete the Improvements, including without limitation, correction of all deficiencies, emissions and defects, or to fund the Tenant Improvement Allowance, Tenant shall be entitled to complete the Improvements, and Rent shall be abated in an amount equal to the amount that Tenant is required to pay in order to complete and pay for the Improvements and to fund the Tenant Improvement Allowance.

11. Substantial Completion.

11.1 As used in the Lease and this Agreement, the terms "substantial completion" or "substantially complete" (or any other variant of such terms) with respect to the Improvements shall mean that (i) the party responsible for construction has procured a temporary or final certificate of occupancy for such work, and (ii) such work has performed substantially in accordance with the provisions of any agreement, including this Agreement, entered into

by Landlord and Tenant with respect to such work, except for finishing details of construction, decoration, mechanical and other adjustments and other items of the type commonly found on an architectural punch list, none of which materially interfere with Tenant's use or occupancy of the Premises for normal business operations. Evidence of substantial completion of the Improvements shall be the delivery to Landlord and Tenant of counterpart copies of certificates to that effect signed by the Contractor and Tenant's Architect. Upon substantial completion of the Landlord's Improvements, Landlord shall obtain a certificate, as provided in Section 5.12 of the Declaration, stating that all Landlord's Improvements comply with the provisions of the Declaration, Landlord shall deliver such certificate to Tenant within two (2) days of receipt of same and Landlord shall record such certificate in the Office of the County Recorder of San Diego County.

This Agreement shall be effective as of the Effective Date of Lease set forth in Section 1.1 of the Lease.

LANDLORD:

LANKFORD & ASSOCIATES, INC., a Colorado corporation

By _____

Its: _____

Signed on _____, 1994

TENANT:

DEPOTECH CORPORATION, a California corporation

By: _____

Its: _____

Signed on _____, 1994

SCHEDULE I TO
WORK LETTER AGREEMENT

[to be replaced with project schedule]

ACTION	DUE DATE	RESPONSIBLE PARTY
A. Final Shell Drawings Delivery Date	12/21/94	Landlord
B. Final Shell Drawings Review	12/27/94	Tenant
C. Final Shell Drawings Revision Date	12/30/94	Landlord & Tenant
D. Phase I Tenant Improvements Final Plans Delivery Date	1/25/95	Tenant
E. Phase I Tenant Improvements Final Plan – Review/Comments	1/30/95	Landlord
F. Phase I Tenant Improvements Final Plan Revision Date	2/2/95	Landlord & Tenant
G. Phase II Tenant Improvements Final Plans Delivery Date	5/15/95	Tenant
H. Phase II Tenant Improvements Final Plan – Review/Comments	5/19/95	Landlord
I. Phase II Tenant Improvements Final Plan Revision Date	5/24/95	Landlord & Tenant

EXHIBIT “D”

Plat of Premises Showing Phase I and Phase II

[TO BE INSERTED]

EXHIBIT "E"

When Recorded, Mail to:

Amy L. Corton, Esq.
Alvarado, Smith, Wolff & Sanchez
350 West Ash Street, Suite 701
San Diego, California 92101

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is made as of December _____, 1994, between LANKFORD & ASSOCIATES, INC., a Colorado corporation ("Landlord"), and DEPOTECH CORPORATION, a California corporation ("Tenant").

1. Lease. Pursuant to that certain Torrey Pines Science Center Industrial Real Estate Lease, dated as of December _____, 1994 ("Lease"), Landlord has leased to Tenant and Tenant has leased front Landlord, those certain leased premises which are described on Exhibit A, attached hereto and incorporated herein by this reference ("Leased Premises"). The provisions and conditions of the Lease are incorporated into this Memorandum by reference and made a part hereof as though fully set forth herein, and unless expressly defined herein, all capitalized terms shall have the meanings ascribed to them in the Lease.

2. Term. The Lease commences on the Commencement Date as defined is the Lease and terminates twenty (20) years thereafter, or approximately July 31, 2015.

3. Option to Extend. Tenant, at its option, may extend the Lease Term for two (2) separate, additional successive terms of five (5) years each.

4. Right of First Refusal to Purchase Real Property. Tenant has the right of first refusal to purchase the Real Property.

5. Right of First Offer to Purchase Real Property. Tenant has the right of first offer to purchase the Real Property.

6. Option to Lease. Tenant has the option to lease space in improvements to be constructed on land adjacent to the Real Property and designated as the Option Property on Exhibit A.

7. Recordation. This Memorandum is prepared for the purpose of recordation only, and in no way modifies the provisions and conditions of the Lease.

[SIGNATURES OF THE FOLLOWING PAGE]

[SIGNATURE PAGE TO MEMORANDUM OF LEASE]

LANDLORD:

LANKFORD & ASSOCIATES, INC., a Colorado corporation_

By: _____
Name: _____
Its: _____

TENANT:

DEPOTECH CORPORATION, a California corporation

By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____
Notary Public in and for said County (SEAL)

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____

Notary Public in and for said County (SEAL)

EXHIBIT "A"
TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION OF REAL PROPERTY

THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS PARCEL 3 OF PARCEL MAP NO. 17448 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 17, 1994.

LEGAL DESCRIPTION OF THE OPTION PROPERTY

THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS PARCELS 4 AND 5 OF PARCEL MAP NO. 17448 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 17, 1994.

EXHIBIT "F"

When Recorded, Mail to:

Amy L. Corton, Esq.
Alvarado, Smith, Wolff & Sanchez
350 West Ash Street, Suite 701
San Diego, California 92101

MEMORANDUM OF LEASE OPTION

This Memorandum of Lease Option ("Memorandum") is made as of December _____, 1994, between LANKFORD & ASSOCIATES, INC, a Colorado corporation ("Lankford") and DEPOTECH CORPORATION, a California corporation ("DepoTech").

1. Grant of Option. Pursuant to Article XV of that certain Torrey Pines Science Center Industrial Real Estate Lease dated December _____, 1994 ("Lease"), Lankford has granted to DepoTech the right to lease ("Option") the real property located in the City of San Diego, County of San Diego, State of California, more particularly described on Exhibit "A" attached hereto and made a part hereof.

2. Option Term. DepoTech has the right to exercise the Option at any time prior to October 15, 1997, on the terms and conditions set forth in the Lease.

3. Recordation. This Memorandum is prepared for the purpose of recordation only, and in no way modifies the provisions and conditions of the Lease. This Memorandum is not a complete summary of the terms and conditions of the Lease and it is subject to, and shall not be used to interpret or modify, the Lease.

[SIGNATURES ON THE FOLLOWING PAGE]

SIGNATURE PAGE TO
MEMORANDUM OF LEASE OPTION

LANKFORD & ASSOCIATES, a Colorado corporation

By: _____
Name: _____
Its: _____

DEPOTECH CORPORATION,
a California corporation

By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____
Notary Public in and for said County (SEAL)

[NOTARY ACKNOWLEDGEMENTS CONTINUED ON FOLLOWING PAGE]

NOTARY PAGE TO
MEMORANDUM OF LEASE OPTION

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____

Notary Public in and for said County (SEAL)

EXHIBIT “A”
TO
MEMORANDUM OF LEASE OPTION

LEGAL DESCRIPTION OF REAL PROPERTY

LOTS 18 AND 20 OF MAP NO. 12485 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JULY 23, 1991.

EXHIBIT "G"

WHEN RECORDED, MAIL TO:)
)
Amy L. Corton, Esq.)
Alvarado, Smith, Wolff & Sanchez)
350 West Ash Street, Suite 701)
San Diego, California 92101)

(Space Above this Line for Recorder's Use)

ASSIGNMENT OF OPTION AND CONSENT TO ASSIGNMENT

This Assignment of Option and Consent to Assignment: ("Assignment") is made as of this _____ day of December, 1994, by and among LANKFORD & ASSOCIATES, INC., a Colorado corporation ("Assignor"), DEPOTECH CORPORATION, a California corporation ("Assignee"), and CHEVRON LAND AND DEVELOPMENT COMPANY, a California corporation ("Chevron") with reference to the following facts:

11.2 Assignor currently has the option to purchase ("Purchase Option") the real property located in the City of San Diego, County of San Diego, State of California, more particularly described as Lots 18 and 20 of Subdivision Map No. 12485 filed in the Office of the County Recorder of San Diego County on July 23, 1991 ("Option Property") , from Chevron under the terms of that certain Option Agreement ("Option Agreement") between Chevron, as optionor, and Assignor, as optionee dated _____, 1994. The Option Agreement expressly provides that Assignor may assign the Option Agreement to Assignee.

11.3 Assignor and Assignee have entered into that certain Torrey Pines Science Center Industrial Real Estate Lease dated _____, 1994 ("Lease") between Assignor, as landlord, and Assignee, as tenant. Under the terms of the Lease, Assignee is leasing from Assignor the real property located in the City of San Diego, County of San Diego, State of California, more particularly described as Lot 19 of Subdivision Map No. 12485 filed in the Office of the County Recorder of San Diego County on July 23, 1991.

11.4 Article XV of the Lease gives Assignee the option to lease from Assignor ("Lease Option") up to eighty thousand (80,000) square feet of rental space within the Option Property ("Option Premises").

11.5 Assignee would not have entered into the Lease if Assignor cound not exercise its rights under the Option Agreement, purchase the Option Property and grant the Lease Option to

Assignee. Because the ability of Assignee to lease the Option Premises was a material inducement to Assignee in its decision to execute the Lease, and because Assignee must protect its right to occupy the Option Premises, Assignor has agreed to assign the Purchase Option and the Option Agreement to Assignee in accordance with the terms and conditions of this Assignment.

NOW, THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, including Assignee entering into the Lease, the receipt and sufficiency of which is hereby acknowledged, and to secure the obligations of Assignor to Assignee under Article XV of the Lease, Assignor hereby transfers, assigns and sets over to Assignee all of Assignor's right, title and interest in and to the Purchase Option and the Option Agreement.

In connection with and as part of the foregoing assignment, Assignor hereby makes the following grants, covenants, agreements, representations and warranties:

11.5.1 Assignee, shall have the right, power and authority to take any and all actions which Assignee deems necessary or appropriate in connection with enforcing the Purchase Option and the Option Agreement.

11.5.2 Assignor shall have a revocable license to exercise the Purchase Option in accordance with the terms of the Option Agreement. Such license may be revoked by Assignee, without notice to Assignor, upon occurrence of the following events:

11.5.2.1 A material default by Assignor under the Lease as provided in Section 11.3 of the Lease; or

11.5.2.2 Any one of the following:

11.5.2.2.0.0.1 If Assignor makes a general assignment or general arrangement for the benefit of creditors;

11.5.2.2.0.0.2 If a petition, for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Assignor and is not dismissed within thirty (60) days;

11.5.2.2.0.0.3 If a trustee or receiver is appointed to take possession of substantially all of Assignor's assets and possession is not restored to Assignor within sixty (60) days; or

11.5.2.2.0.0.4 If substantially all of Assignor's assets are subjected to attachment; execution, or other judicial seizure which is not discharged within sixty (60) days.

11.5.3 Unless and until such, license is so revoked, Assignor may exercise the Purchase Option in accordance with the terms and conditions of the Option Agreement. Additionally, Assignor shall:

11.5.3.1 observe and perform faithfully every obligation which Assignor is required to perform under the Option Agreement;

11.5.3.2 at its sole cost and expense, enforce, or secure the performance of, every obligation to be performed by Chevron under the Option Agreement;

11.5.3.3 promptly give written notice to Assignee of any notice of default received by Assignor from Chevron;

11.5.3.4 Not further assign the Purchase Option or the Option Agreement;

11.5.3.5 except with Assignee's prior written consent, not cancel the Purchase Option or the Option Agreement; and

11.5.3.6 except with Assignee's prior written consent, not materially modify or amend, by sufferance or otherwise, the Purchase Option or the Option Agreement.

11.5.4 Except for a wrongful revocation of the license as described in Paragraph 2 hereof, Assignee shall not in any way be liable to Assignor or to Chevron for any act or omission done, or anything admitted to be done, in connection with the Purchase Option or the Option Agreement.

11.5.5 This Assignment shall continue in full force and effect until the earlier to occur of i) the Option Notice (as defined in the Lease) is delivered by Assignee to Assignor, ii) the Option Term (as defined in the Lease) terminated or iii) Assignee is in material default under the terms and conditions of the lease after the expiration of any applicable grace period. At such time, this Assignment and the authority and powers herein granted by Assignor to Assignee shall cease and terminate.

11.5.6 Upon revocation of Assignor's license provided in Paragraph 2 hereof, Assignor hereby irrevocably constitutes and appoints Assignee its true and lawful attorney in fact, to undertake and execute any and all of the rights or powers described herein with the same force and effect as if undertaken or executed by Assignor.

11.5.7 By execution of this Assignment, Chevron consents to this Assignment and agrees that if this Assignment is not enforceable for any reason, including, without limitation, due to the filing of a petition under Title 11 United States Code Sections 101 et seq. ("Bankruptcy Code") by or against Assignor, and Assignor cannot exercise the Purchase Option for any reason, including, without limitation, due to the rejection of the Option Agreement under the Bankruptcy Code, Chevron shall grant to Assignee the Purchase Option on substantially the same terms and conditions as contained in the Option Agreement.

11.5.8 If Assignee is prevented from exercising any of its rights hereunder without first obtaining leave of the bankruptcy court, then Assignor will, within thirty (30) days of filing of a petition under the Bankruptcy Code, arrange for the filing of a motion, to assume or reject the Option Agreement and this Assignment. Any costs, damages or expenses incurred by Assignee due to any post petition default(s) will be treated as administrative claims under the Bankruptcy Code.

11.5.9 Assignor hereby agrees that in the event Assignor files, or there is filed against Assignor, a petition under the Bankruptcy Code, Assignee shall thereupon immediately be entitled, and Assignor shall consent, to relief fro en any automatic stay imposed by Section 362 of the Bankruptcy Code. Assignor further agrees that Assignor shall, immediately following request by Assignee, take all actions necessary to afford Assignee relief from any such automatic stay, including without limitation, the execution of such documents, and the filing of such motions,, pleadings, documents and other papers as Assignee may deem necessary or appropriate to obtain such relief. Assignor hereby acknowledges that Assignee is relying upon the foregoing in agreeing to enter into the Lease.

11.5.10 All of the covenants, agreements and provisions of this Assignment by or for the benefit of the parties hereto shall bind and inure to the benefit of the successors and assigns of Assignor, Assignee and Chevron.

11.5.11 This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, Assignor, Assignee and Chevron have caused this Assignment to be duly executed on the date first above written.

LANKFORD & ASSOCIATES INC., a
Colorado corporation

By: _____
Name: _____
Its: _____

DEPOTECH CORPORATION,
a California corporation

By: _____
Name: _____
Its: _____

CHEVRON LAND AND DEVELOPMENT
COMPANY, a California corporation

By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____

Notary Public in and for said County (SEAL)

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____

Notary Public in and for said County (SEAL)

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On this _____ day of _____, 1994, before me the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

_____

Notary Public in and for said County (SEAL)

AMENDMENT NO. 1
TO
INDUSTRIAL REAL ESTATE LEASE
DATED DECEMBER 8, 1994

by and between
LANKFORD & ASSOCIATES, INC.
A Colorado Corporation as Landlord

and

DEPOTECH CORPORATION
a California corporation, as Tenant,

THIS AMENDMENT NO. 1 TO LEASE ("Amendment") is made and entered into as of this 26 day of October, 1995, by and between LANKFORD & ASSOCIATES, INC., a Colorado corporation ("Landlord"), and DEPOTECH CORPORATION, a California corporation ("Tenant") upon the basis of the following facts, understandings and intentions.

RECITALS

A. Landlord and Tenant entered on that certain Torrey Pines Science Center Industrial Real Estate Lease, dated December 8, 1994 ("Lease"), pursuant to which Landlord is leasing to Tenant certain Real property and the improvements to be constructed thereon ("Premises"), as more particularly described in the Lease. Any capitalized terms used but not defined in this First Amendment which are defined in the Lease shall have the meaning ascribed In the Lease.

B. Landlord and Tenant now desire to amend the terms of the Lease, as more particularly described in this Amendment.

NOW THEREFORE, the parties hereto agree as follows:

1. Alteration, Additions and Improvements. Section 6.4.2 of the Lease is hereby amended by adding the following language to the end of the Section:

> All alterations, additions or improvements (including, but not limited to, telecommunications systems and cabling, data communications systems and cabling, electrical hoop up in relation to systems furniture installation, security systems and piping but excluding pre-manufactured systems or sub-systems) which are to be performed by contractors or subcontractors as a result of competitive bid proposals requested by Tenant (i.e. work which is not performed by Tenant's employees or change orders occurring in the normal course of business to existing

contracts implemented under this process), and requiring Landlord's approval, shall be performed only by contractors and subcontractors approved by Landlord in its reasonable discretion in a process by which the Tenant shall solicit bids from any source and will select a contractor and/or subcontractor preferred by the

Landlord unless in Tenant's reasonable discretion such preferred contractor and/or subcontractor does not meet Tenant's reasonable standards as to reliability, reputation, responsiveness, directly relevant experience, knowledge, financial and/or personnel qualifications. Any excess costs of such work Incurred by Tenant as a result of Landlord's rejection of any reputable and responsible contractor and/or subcontractor reasonably proposed by Tenant, or resulting from only Landlord's preferred contractors making bids for such work as a result or the foregoing requirement, shall be paid by Landlord. The amount of such excess costs of the work shall be determined by comparison of Landlord's preferred contractor bids to Tenant's bids, or in the event comparable bids are not available, then as reasonably determined by Tenant. If Landlord fails to reimburse Tenant's request for such excess costs within thirty (30) days after Landlord's receipt of Tenant's request for such reimbursement, Tenant may deduct such amount (and interest accrued thereon) from any monies which Tenant owes Landlord.

2. Non-Disturbance. Section 12.2.1 of the Lease is hereby amended by adding the following language to the end of the Section.

In addition to the foregoing requirements, Tenant's obligation to subordinate its interest under the Lease and to attorn and become the successor-in-interest to Landlord as described in 12.2 above shall be conditioned upon receipt by Tenant of a written agreement executed by said successor that said successor agrees to be bound by Landlord's obligation under this Amendment.

3. Is all other respects, the aforesaid Lease is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by its respective, and duly authorized and directed officers, on the 26 day of October, 1995.

LANDLORD:	TENANT:
LANKFORD & ASSOCIATES, INC. a Colorado corporation	DEPOTECH CORPORATION, a California corporation
By: /s/ (illegible)	By: /s/ (illegible)
Its: President	Its: President

SECOND AMENDMENT TO INDUSTRIAL REAL ESTATE LEASE

This SECOND AMENDMENT TO INDUSTRIAL REAL ESTATE LEASE (referred to herein as this "**Second Amendment**" or this "**Amendment**") is made and entered into as of the 2nd day of July, 2009, by and between LASDK LIMITED PARTNERSHIP, a Delaware limited partnership ("**Landlord**"), and PACIRA PHARMACEUTICALS, INC., a California corporation (" **Tenant**").

R E C I T A L S :

A. Landlord (as successor-in-interest to Lankford & Associates, Inc., a Colorado corporation) and Tenant (as successor-in-interest to Depotech Corporation, a California corporation) are parties to that certain Industrial Real Estate Lease dated December 8, 1994 (the " **Original Lease**"), as amended by that certain Amendment No. 1 to Industrial Real Estate Lease dated October 26, 1995 (the " **First Amendment**"), whereby Landlord leases to Tenant and Tenant leases from Landlord the "Premises," as that term is defined in Section 1.5 of the Original Lease, which Premises includes, without limitation, the entirety of that certain building (the "**Building**") located at 10450 Science Center Drive, La Jolla, California 92037. The Original Lease and the First Amendment shall hereafter be referred to, collectively, as the "**Lease**."

B. As an accommodation to Tenant, Landlord and Tenant have agreed to defer a portion of Tenant's monthly installments of Basic Monthly Rent for the Premises during the period commencing retroactively as of February 1, 2009 and ending on March 31, 2010. Therefore, Landlord and Tenant desire to enter into this Second Amendment to define Tenant's deferred rent amount and deferred rent period, to state the applicable terms and conditions relating thereto (including, without limitation, the applicable return and repayment terms) and to make other modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

C. Concurrent with Landlord's and Tenant's execution of this Second Amendment, HCP TPSP, LLC, a Delaware limited liability company ("**HCP**"), an affiliate of Landlord, and Tenant are entering into that certain Fourth Amendment to Industrial Real Estate Triple Net Lease dated as of even date herewith (the "**TPSP Fourth Amendment**") amending that certain Industrial Real Estate Triple Net Lease dated August 17, 1993, as amended (the " **TPSP Lease**").

A G R E E M E N T :

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this Second Amendment.

2. **Condition of the Premises**. Landlord and Tenant acknowledge that Tenant has been occupying the Premises pursuant to the Lease, has had full opportunity to review the condition thereof and has done so, and therefore, Tenant shall continue to accept the Premises in its presently existing, "as is" condition. Landlord shall not be obligated to provide or pay for any build-out of, or alteration to, the Premises.

3. **Basic Monthly Rent Deferment**. As an accommodation to Tenant, the parties hereby agree that, so long as Tenant is not then and has not previously (but subsequent to the date hereof) been in "Monetary Default," as that term is defined below, fifty percent (50%) of each installment of the Basic Monthly Rent payable by Tenant under the Lease in connection with the Premises (the "**Deferred Basic Rent**"), for each month during the period commencing retroactively as of February 1, 2009 and ending on March 31, 2010 (the "**Deferment Period**"), shall be conditionally deferred (in accordance with the deferment schedule set forth below) and shall, except as otherwise provided herein, not be due by Tenant until the applicable time period specified in Section 5 below. Landlord and Tenant acknowledge and agree that the Deferred Basic Rent for the entire Deferment Period is equal to a total of Two Million One Hundred Nine Thousand One Hundred One and 20/100 Dollars ($2,109,101.20) (excluding Landlord's return, as described below). The Deferred Basic Rent shall accrue during the Deferment Period as follows:

Month During Deferment Period	Applicable Monthly Deferment Amount	Deferred Basic Rent
February 2009	$ 148,423.73	$ 148,423.73
March 2009	$ 148,423.73	$ 296,847.46
April 2009	$ 148,423.73	$ 445,271.19
May 2009	$ 148,423.73	$ 593,694.92
June 2009	$ 148,423.73	$ 742,118.65
July 2009	$ 148,423.73	$ 890,542.38
August 2009	$ 148,423.73	$ 1,038,966.11
September 2009	$ 148,423.73	$ 1,187,389.84
October 2009	$ 153,618.56	$ 1,341,008.40
November 2009	$ 153,618.56	$ 1,494,626.96
December 2009	$ 153,618.56	$ 1,648,245.52
January 2010	$ 153,618.56	$ 1,801,864.08
February 2010	$ 153,618.56	$ 1,955,482.64
March 2010	$ 153,618.56	$ 2,109,101.20

The rent deferment arrangement contained in this Section 3 is personal to the Tenant named in this Second Amendment (the "**Original Tenant**") and any "Affiliate," as such term is defined below, to whom Original Tenant's entire interest in the Lease, as hereby amended, has been assigned (the " **Affiliate Assignee**") and shall only apply to the extent that the Original Tenant or its Affiliate Assignee (if applicable) remains the tenant under the Lease, as amended hereby. For purposes of this Second Amendment, an "**Affiliate**" of Tenant is an entity which is controlled by, controls, or is under common control with, Tenant. "**Control**," as used in this Second Amendment, shall mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity. Landlord and Tenant hereby acknowledge that, as of the date of this Second Amendment, for the period commencing on February 1, 2009 and ending on June 31, 2009, Tenant has previously paid to Landlord the monthly installments of Basic Monthly Rent attributable to the Premises less the applicable monthly deferment amounts set forth in the schedule above. For purposes of this Second Amendment, Tenant shall be in " **Monetary Default**" of the Lease, as hereby amended, if Tenant fails to pay to Landlord any regularly scheduled payment when due under the Lease, as hereby amended, and such failure continues for five (5) business days after Tenant's receipt of written notice from Landlord that the same is past due.

4. **Landlord's Return on Deferred Basic Rent**. In consideration of Landlord's execution of this Second Amendment and agreement to defer payments of rent under the Lease, as hereby amended, Tenant shall pay to Landlord a return on the accrued and outstanding Deferred Basic Rent at a rate of ten percent (10%) per annum (the "**Deferred Basic Rent Return**"), which Deferred Basic Rent Return shall (i) accrue monthly on a cumulative, compounded basis over the Deferment Period and the "Repayment Period," as that term is defined in Section 5 below, and (ii) be paid by Tenant, along with Tenant's payment of the Deferred Basic Rent, in accordance with the terms of Section 5, below. As used herein, the term "**The Balance**" shall mean the sum of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return at the time identified.

5. **Repayment of Deferred Basic Rent and Deferred Basic Rent Return** . The accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return shall be paid in full to Landlord in accordance with the terms of this Section 5. Not later than April 1, 2010, Tenant shall pay to Landlord a lump sum of Four Hundred Forty-Eight Thousand Nine Hundred Forty and 60/100 Dollars ($448,940.60) (*i.e.*, twenty percent (20%) of The Balance as of April 1, 2010) (the "**Initial Lump Sum Payment**"). Thereafter, commencing on or prior to the first (1st) day of each calendar month occurring during the period commencing on April 1, 2010 and ending on September 30, 2011, (the " **Repayment Period**"), along with and in addition to all other regularly scheduled Rent otherwise due and payable by Tenant for the Premises under the terms of the Lease, as amended hereby, Tenant shall pay to Landlord the

remainder of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return (*i.e.*, the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return less the Initial Lump Sum Payment) as follows:

Payment Due Date	Applicable Repayment Amount
On or prior to April 1,2010	$ 106,956.94
On or prior to May 1, 2010	$ 106,956.94
On or prior to June 1, 2010	$ 106,956.94
On or prior to July 1, 2010	$ 106,956.94
On or prior to August 1, 2010	$ 106,956.94
On or prior to September 1, 2010	$ 106,956.94
On or prior to October 1, 2010	$ 106,956.94
On or prior to November 1,2010	$ 106,956.94
On or prior to December 1, 2010	$ 106,956.94
On or prior to January 1,2011	$ 106,956.94
On or prior to February 1, 2011	$ 106,956.94
On or prior to March 1, 2011	$ 106,956.94
On or prior to April 1, 2011	$ 106,956.94
On or prior to May 1, 2011	$ 106,956.94
On or prior to June 1,2011	$ 106,956.94
On or prior to July 1,2011	$ 106,956.94
On or prior to August 1, 2011	$ 106,956.94
On or prior to September 1, 2011	$ 106,956.94

Further, notwithstanding any contrary provision of the Lease, as amended, the Deferred Basic Rent, Deferred Basic Rent Return and the "Reimbursement Amount," as that term is defined in Section 6 below, payable hereunder shall constitute a part of the "Rent" (as that term is defined in the Lease) payable by Tenant in connection with the Premises.

6. **Reimbursement of Landlord's Costs**. Landlord and Tenant hereby agree that in consideration of Landlord's execution of this Second Amendment and granting Tenant the concessions set forth herein, Tenant shall reimburse Landlord (up to a cap in the amount of the "Reimbursement Amount," as that term is defined below) for (i) Landlord's legal fees and costs incurred in connection with any of the matters set forth in this Second Amendment (including, without limitation, the liens and encumbrances relating to the Premises identified in Section 18, below, and the "Settlement Agreement," as that term is defined in Section 18, below) and any of the matters set forth in the TPSP Fourth Amendment (collectively, the " **Legal Costs**"), and (ii) all fees and costs incurred by Landlord in connection with Landlord's lender's review of this Second Amendment and the TPSP Fourth Amendment (if applicable) (the "**Lender Review Costs**") (the Legal Costs and the Lender Review Costs are, collectively, " **Landlord's Costs**"). Tenant shall reimburse Landlord's Costs to Landlord in an amount not to exceed Fifty Thousand and No/100 Dollars ($50,000.00) (the " **Reimbursement Amount**"); provided, however, the foregoing Reimbursement Amount cap shall not apply to any and all "Excluded Costs," as that term is defined below. Following Landlord's determination of Landlord's Costs, Landlord shall provide reasonable documentation thereof to Tenant. Tenant shall pay to Landlord a return on the outstanding amount of the Reimbursement Amount accruing at a rate of ten percent (10%) per annum over the Deferment Period and the Repayment Period. The Reimbursement Amount (plus the return) will be deferred during the Deferment Period, and, thereafter, the Reimbursement Amount (plus the return) shall be payable by Tenant to Landlord in equal monthly installments over the Repayment Period in addition to all regularly scheduled Rent due and payable by Tenant for the Premises under the terms of the Lease, as amended hereby, and payments of the accrued, outstanding Deferred Basic Rent and the accrued, outstanding Deferred Basic Rent Return, as set forth in Section 5 above. The Reimbursement Amount shall represent the full satisfaction of any reimbursements or costs that are or might come due under the Lease, as hereby amended, and the TPSP Lease in connection with the matters addressed in this Second Amendment and the TPSP Fourth Amendment, including the Legal Costs and the Lender Review Costs, but excluding the Excluded Costs. The term " **Excluded Costs**" shall mean any and all costs (including, without limitation, all legal fees and costs) incurred by Landlord for which Tenant may be liable under the Lease, as hereby amended, (i) in the event that the "Effective Date," as that term is defined in the Settlement Agreement, does not occur, (ii) relating to any default under the Settlement Agreement, and (iii) relating to any default by Tenant under this Second Amendment or the TPSP Fourth Amendment.

7. **Acceleration of Deferred Basic Rent and Deferred Basic Rent Return for Tenant Default, Assignment of Lease or Bankruptcy** . Notwithstanding any contrary provision of the Lease, as amended hereby, Landlord shall have the right, at its option, to accelerate the repayment of The Balance accrued and unpaid as of such date and to make the same immediately payable in full by Tenant, upon (i) any Monetary Default (as defined in Section 3 above) by Tenant; (ii) any assignment or attempted assignment of the Lease, as amended hereby, by the Original Tenant to any third party (other than to an Affiliate Assignee); (iii) a general assignment by Tenant for the benefit of creditors, or the taking of any corporate action in furtherance of bankruptcy or dissolution (whether or not there exists any proceeding under an insolvency or bankruptcy law), or the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law; or (iv) the sale of Tenant's business through a merger or sale of stock which, in either case, results in a more than fifty percent (50%) change in control of Tenant's stock, or a sale of all of the assets of Tenant's business during the Deferment Period or

the Repayment Period or prior to the full repayment of the Deferred Basic Rent and Deferred Basic Rent Return; provided, however, the issuance of equity securities of Tenant or securities exercisable or convertible for equity securities of Tenant for financing purposes that results in a change of Control of Tenant shall not be prohibited by the Lease, as hereby amended, or result in such an acceleration as otherwise set forth in this Section 7. In accordance with the foregoing, if any acceleration occurs prior to the end of the Deferment Period, then there shall be no further deferment of Basic Monthly Rent and, in addition to the repayment described in this Section 7, Tenant shall immediately become obligated to pay to Landlord the full amount of Tenant's regularly scheduled payments and amounts of Basic Monthly Rent thereafter coming due, as and when the same come due, in accordance with the terms of the Lease.

8. **Basic Monthly Rent During Remainder of Term**. Effective as of April 1, 2010, and continuing throughout the remainder of the Lease Term, in addition to the payment of the accrued, outstanding Deferred Basic Rent, the accrued, outstanding Deferred Basic Rent Return and the Reimbursement Amount, as applicable, as and when the same come due pursuant to the provisions of this Second Amendment, Tenant shall pay to Landlord the full amount of Tenant's regularly scheduled payments and amounts of Basic Monthly Rent, as and when the same come due, in accordance with the terms of the Lease.

9. **Additional Rent**. Notwithstanding the deferment of Basic Monthly Rent set forth in this Second Amendment, during the Deferment Period and throughout the remainder of the Lease Term, Tenant shall remain obligated to pay to Landlord the full amount of all other monetary obligations of Tenant to Landlord under the terms of the Lease (including, without limitation, all costs of real property taxes, utilities, insurance premiums, and Project Operating Expenses as and to the extent set forth in the Lease).

10. **Warrants for Purchase of Stock**. In consideration of Landlord's execution of this Second Amendment and granting Tenant the concessions set forth herein and as a condition precedent to the effectiveness of this Second Amendment, Tenant shall, as required by the TPSP Fourth Amendment, concurrent with the execution and delivery of this Second Amendment and the TPSP Fourth Amendment, execute and deliver to HCP the two (2) warrant agreements attached to the Fourth Amendment as **Exhibit A** (it being understood by the parties hereto that only such two (2) warrant agreements shall be executed and delivered by Tenant notwithstanding that the warrant agreements are referenced in both this Second Amendment and the TPSP Fourth Amendment).

11. **Deletions and Modifications**. Landlord and Tenant hereby agree and acknowledge that, effective as of the date of this Second Amendment, the following deletions and/or modifications are made to the Lease.

11.1 Sections 1.4.2 and 1.9 of the Original Lease have expired, and, therefore, Sections 1.4.2 and 1.9 of the Original Lease are hereby deleted in their entirety and are of no further force or effect.

11.2 In addition to the insurance that Tenant is required to carry in accordance with the terms of the Lease, Tenant, at Tenant's sole cost and expense, shall obtain and keep in force throughout the Lease Term, umbrella/excess liability insurance in the amount of

$5,000,000 with respect to the risks referred to in Section 7.1.1 of the Original Lease, which shall apply specifically to the Premises. These limits shall be in addition to and not including those stated for the underlying commercial general liability, business automobile liability, and employers liability insurance required under the Lease. Except as set forth herein, such policy shall be in accordance with the terms of Section 7 of the Original Lease.

11.3 Section 15 of the Original Lease has expired, and, therefore, Section 15 of the Original Lease is hereby deleted in its entirety and is of no further force or effect.

12. **Remedies**. For the purpose of clarifying Section 11.4.2 of the Original Lease, Landlord and Tenant hereby acknowledge and agree that the remedy provided to Landlord thereunder is intended to be, and shall be deemed to provide to Landlord, the remedy described in California Civil Code Section 1951.4.

13. **Notices**. Notwithstanding any contrary provision contained in the Lease, as of the date of this Second Amendment, any notices to Landlord must be delivered to the following addresses (and otherwise in accordance with the terms of Section 18.4 of the Original Lease) or to such other places as Landlord may from time to time designate in a notice to Tenant:

HCP, Inc.
3760 Kilroy Airport Center, Suite 300
Long Beach, California 90806
Attention: Legal Department

and

HCP, Inc.
444 North Michigan Avenue, Suite 3230
Chicago, Illinois 60611
Attention: Randall W Rohner, Senior Vice President

and

Allen Matkins Leek Gamble Mallory & Natsis LLP
1901 Avenue of the Stars, Suite 1800
Los Angeles, California 90067
Attention: Anton N. Natsis, Esq.

14. **No Broker**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent occurring by, through, or

under the indemnifying party. The terms of this Section 14 shall survive the expiration or earlier termination of the term of the Lease, as hereby amended.

15. **No Default; Tolling of Cure Period**. To Tenant's knowledge, as of the date of this Second Amendment, Landlord is not in default (nor does a situation exist which, with the passage of time, the giving of notice, or both, would constitute a default) under any of the terms or provisions of the Lease. So long as sub-item (iii) set forth in Section 18 below, is satisfied, (i) to Landlord's knowledge, as of the date of this Second Amendment, Tenant is not in default (nor does a situation exist which, with the passage of time, the giving of notice, or both, would constitute a default) and there are no Monetary Defaults under any of the terms or provisions of the Lease, as hereby amended, and (ii) Tenant's cure period with respect to the imposition of any liens and encumbrances shall be tolled.

16. **Conflict; No Further Modification**. In the event of any conflict between the Lease and this Second Amendment, the terms of this Second Amendment shall prevail. Except as specifically set forth in this Second Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

17. **Counterparts/Facsimile or .PDF Signatures**. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument. Additionally, the parties hereto acknowledge and agree that signatures transmitted via facsimile or .pdf shall be considered fully binding under this Second Amendment.

18. **Effectiveness of this Second Amendment**. Landlord and Tenant hereby acknowledge and agree that, notwithstanding the full execution and delivery of this Second Amendment by Landlord and Tenant, this Second Amendment is expressly conditioned upon the occurrence of all of the following: (i) approval of this Second Amendment by Landlord's partner, the National Electric Benefit Fund; (ii) approval of this Second Amendment by Landlord's lenders; and (iii) the occurrence of the "Effective Date," as that term is defined in that certain Settlement Agreement dated June 17, 2009 by and between Tenant and DPR Construction, Inc. ("**DPR**") as amended by that certain Amendment dated June 26, 2009 (collectively, the "**Settlement Agreement**") (of which Landlord is a third party beneficiary) and the full payment by Tenant to DPR of the "Aggregate Payment Amount" (i.e., $2,000,000), as that term is defined in, and pursuant to the terms of, the Settlement Agreement (collectively, the "**Conditions Precedent**"). To the extent that the Conditions Precedent are not satisfied on or before September 1, 2009, then Landlord may terminate this Second Amendment upon delivery of written notice thereof to Tenant, in which event this Second Amendment shall automatically terminate and the Lease shall continue in full force and effect as if unmodified by this Second Amendment. So long as the Conditions Precedent are satisfied, Landlord and Tenant each represent and warrant to the other that the execution and performance of this Second Amendment by such party has been authorized and approved by all requisite corporate, limited liability company, partnership and third party action.

[Continued on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

"LANDLORD"

LASDK LIMITED PARTNERSHIP,
a Delaware limited partnership

By: HCP-Torrey Pines I, Inc.,
a Delaware corporation,
its Managing General Partner

/s/ R.W. Rohmer

Name: Randall W. Rohmer

Its: Senior V.P.

[Signatures continue on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

"TENANT"

PACIRA PHARMACEUTICALS, INC.,
a California corporation

By: /s/ James Scibetta
Name:
Its:

By:
Name:
Its:

Execution Copy

Exhibit 10.28

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT , dated as of April 30, 2010 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement") is among GENERAL ELECTRIC CAPITAL CORPORATION ("GECC"), in its capacity as agent for Lenders (as defined below) (together with its successors and assigns in such capacity, "Agent"), the financial institutions who are or hereafter become parties to this Agreement as lenders (together with GECC, collectively the "Lenders", and each individually, a "Lender"). PACIRA PHARMACEUTICALS INC., a California corporation ("Borrower"), and the other entities or persons, if any, who are or hereafter become parties to this Agreement as guarantors (each a " Guarantor" and collectively, the "Guarantors", and together with Borrower, each a "Loan Party" and collectively, "Loan Parties": provided that, for clarity, the foregoing terms do not include any VC Guarantor, as defined below).

RECITALS

Borrower wishes to borrow funds from time to time from Lenders, and Lenders desire to make loans, advances and other extensions of credit, severally and not jointly, to Borrower from time to time pursuant to the terms and conditions of this Agreement.

AGREEMENT

Loan Parties, Agent and Lenders agree as follows:

1. DEFINITIONS.

As used in this Agreement, all capitalized terms shall have the definitions as provided herein. Any accounting term used but not defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, as in effect from time to time (" GAAP") and all calculations shall be made in accordance with GAAP. The term "financial statements" shall include the accompanying notes and schedules. All other terms used but not defined herein shall have the meaning given to such terms in the Uniform Commercial Code as adopted in the State of New York, as amended and supplemented from time to time (the "UCC").

2. LOANS AND TERMS OF PAYMENT.

2.1. **Promise to Pay.** Borrower promises to pay Agent, for the ratable accounts of Lenders, when due pursuant to the terms hereof, the aggregate unpaid principal amount of all loans, advances and other extensions of credit made severally by the Lenders to Borrower under this Agreement, together with interest on the unpaid principal amount of such loans, advances and other extensions of credit at the interest rates set forth herein.

2.2. **Term Loans.**

(a) Commitment. Subject to the terms and conditions hereof, each Lender, severally, but not jointly, agrees to make term loans (each a " Term Loan" and collectively, the "Term Loans") to Borrower from time to time on any Business Day (as defined below) during the period from the Closing Date (as defined below) until September 15, 2010 (the " Commitment Termination Date") in an aggregate principal amount not to exceed such Lender's commitment as

identified on Schedule A hereto (such commitment of each Lender as it may be amended to reflect assignments made in accordance with this Agreement or terminated or reduced in accordance with this Agreement, its "Commitment", and the aggregate of all such commitments, the "Commitments"'). Notwithstanding the foregoing, the aggregate principal amount of the Term Loans made hereunder shall not exceed $11,250,000 (the " Total Commitment"). Each Lender's obligation to fund a Term Loan shall be limited to such Lender's Pro Rata Share (as defined below) of such Term Loan. Subject to the terms and conditions hereof, the initial Term Loan shall be made on the Closing Date in an aggregate principal amount equal to $5,625,000 (the "Initial Term Loan"). After the Initial Term Loan, Borrower may request no more than two (2) additional Term Loans (each a "Subsequent Term Loan"), and each Subsequent Term Loan must be in an amount equal to at least $1,000,000; provided, however, that (1) all conditions set forth in Section 4.2(c) must be satisfied before any Subsequent Term Loan is advanced, (2) the aggregate principal amount of a particular Subsequent Term Loan cannot exceed the amount specified pursuant to the calculations set forth in Section 4.2(c), and (3) the aggregate principal amount of all Subsequent Term Loans cannot exceed $5,625,000.

(b) Method of Borrowing. When Borrower desires a Term Loan (other than the Initial Term Loan), Borrower will notify Agent (which notice shall be irrevocable) by facsimile (or by telephone, provided that such telephonic notice shall be promptly confirmed in writing, but in any event on or before the following Business Day) on the date that is ten (10) Business Days prior to the day the Term Loan is to be made (or such shorter period of time as Agent may agree). Agent and Lenders may act without liability upon the basis of such written or telephonic notice believed by Agent to be from any authorized officer of Borrower. Agent and Lenders shall have no duty to verify the authenticity of the signature appearing on any such written notice.

(c) Funding of Term Loans. Promptly after receiving a request for a Term Loan, Agent shall notify each Lender of the contents of such request and such Lender's Pro Rata Share of the requested Term Loan. Upon the terms and subject to the conditions set forth herein, each Lender, severally and not jointly, shall make available to Agent its Pro Rata Share of the requested Term Loan, in lawful money of the United States of America in immediately available funds, to the Collection Account (as defined below) prior to 11:00 a.m. (New York time) on the specified date. Agent shall, unless it shall have determined that one of the conditions set forth in Section 4.1 or 4.2, as applicable, has not been satisfied, by 4:00 p.m. (New York time) on such day, credit the amounts received by it in like funds to Borrower by wire transfer to, unless otherwise specified in a Disbursement Letter (as defined below), the following deposit account of Borrower (or such other deposit account as specified in writing by an authorized officer of Borrower and acceptable to Agent) (the "Designated Deposit Account"):

Bank Name: Silicon Valley Bank SJ
Bank Address: 3003 Tasman Dr, Santa Clara, CA 95054
ABA#: 121140399
Account#: 3300161686
Account Name: Pacira Pharmaceuticals, Inc.
Ref: GE Capital Term Loan Funding

(d) Notes. The Term Loans of each Lender shall be evidenced by a promissory note substantially in the form of Exhibit A hereto (each a "Note" and, collectively, the "Notes"), and Borrower shall execute and deliver a Note to each Lender. Each Note shall represent the obligation of Borrower to pay to such Lender the lesser of (a) the aggregate unpaid principal amount of all Term Loans made by such Lender to or on behalf of Borrower under this Agreement or (b) the amount of such Lender's Commitment, in each case together with interest thereon as prescribed in Section 2.3(a).

(e) Agent May Assume Funding. Unless Agent shall have received notice from a Lender prior to the date of any particular Term Loan that such Lender will not make available to Agent such Lender's Pro Rata Share of such Term Loan, Agent may assume that such Lender has made such amount available to it on the date of such Term Loan in accordance with subsection (c) of this Section 2.2, and may (but shall not be obligated to), in reliance upon such assumption, make available a corresponding amount for the account of Borrower on such date. If and to the extent that such Lender shall not have so made such amount available to Agent, such Lender and Borrower severally agree to repay to Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the day such amount is made available to Borrower until the day such amount is repaid to Agent, at (i) in the case of Borrower, a rate per annum equal to the interest rate applicable thereto pursuant to Section 2.3(a), and (ii) in the case of such Lender, a floating rate per annum equal to, for each day from the day such amount is made available to Borrower until such amount is reimbursed to Agent, the weighted average of the rates on overnight federal funds transactions among members of the Federal Reserve System, as determined by Agent in its sole discretion (the "Federal Funds Rate") for the first Business Day and thereafter, at the interest rate applicable to such Term Loan. If such Lender shall repay such corresponding amount to Agent, the amount so repaid shall constitute such Lender's loan included in such Term Loan for purposes of this Agreement.

2.3. **Interest and Repayment.**

(a) Interest. Each Term Loan shall accrue interest in arrears from the date made until such Term Loan is fully repaid at a fixed per annum rate of interest equal to the sum of (i) the greater of (A) the Treasury Rate (as defined below) in effect on the day that is three (3) Business Days prior to the making of such Term Loan as determined by Agent and (B) 1.36% plus (ii) 7.69%. All computations of interest and fees calculated on a per annum basis shall be made by Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such interest and fees are payable. Each determination of an interest rate or the amount of a fee hereunder shall be made by Agent and shall be conclusive, binding and final for all purposes, absent manifest error. As used herein, the term "Treasury Rate" means a per annum rate of interest equal to the rate published by the Board of Governors of the Federal Reserve System in Federal Reserve Statistical Release H.15 entitled "Selected Interest Rates" under the heading "U.S. Government Securities/Treasury Constant Maturities" as the three year treasuries constant maturities rate. In the event Release H.15 is no longer published, Agent shall select a comparable publication to determine the U.S. Treasury note yield to maturity.

(b) Payments of Principal and Interest.

(i) Interest. For each Term Loan, Borrower shall pay interest to the Agent, for the ratable benefit of the Lenders, at the rate of interest for such Term Loan determined in accordance with Section 2.3(a) in arrears on the first day of each calendar month (a " Scheduled Payment Date") commencing on the first day of the calendar month occurring after the month during which such Term Loan was made.

(ii) Principal. For the Initial Term Loan, Borrower shall pay principal to the Agent, for the ratable benefit of the Lenders, in equal consecutive payments of $234,375 on each Scheduled Payment Date, commencing on May 1, 2011. For each Subsequent

Term Loan, Borrower shall pay principal to the Agent, for the ratable benefit of the Lenders, in equal consecutive payments on each Scheduled Payment Date, commencing on the first day of the thirteenth calendar month occurring after the month during which such Term Loan was made, with each such payment of principal in an amount equal to (a) the original principal amount of such Term Loan, divided by (b) 24.

(iii) Payments Generally. Notwithstanding the foregoing provisions of this Section 2.3(b), all unpaid principal and accrued interest with respect to any Term Loan is due and payable in full to Agent, for the ratable benefit of Lenders, on the earlier of (A) the first day of the thirty-seventh month following the date such Term Loan was made or (B) the date that such Term Loan otherwise becomes due and payable hereunder, whether by acceleration of the Obligations pursuant to Section 8.2 or otherwise (the earlier of (A) or (B), the " Applicable Term Loan Maturity Date"). Each scheduled payment of interest or principal hereunder is referred to herein as a " Scheduled Payment." Each Scheduled Payment, when paid, shall be applied first to the payment of accrued and unpaid interest on the applicable Term Loan and then to unpaid principal balance of such Term Loan. Without limiting the foregoing, all Obligations shall be due and payable on the Applicable Term Loan Maturity Date for the last Term Loan made.

(c) No Reborrowing. Once a Term Loan is repaid or prepaid, it cannot be reborrowed.

(d) Payments. All payments (including prepayments) to be made by any Loan Party under any Debt Document shall be made by wire transfer or ACH transfer in immediately available funds (which shall be the exclusive means of payment hereunder) in U.S. dollars, without setoff or counterclaim to the Collection Account (as defined below) before 11:00 a.m. (New York time) on the date when due. All payments received by Agent after 11:00 a.m. (New York time) on any Business Day or at any time on a day that is not a Business Day may, in Agent's sole discretion, be deemed to be received on the next Business Day. Whenever any payment required under this Agreement would otherwise be due on a date that is not a Business Day, such payment shall instead be due on the next Business Day, and additional fees or interest, as the case may be, shall accrue and be payable for the period of such extension. All Scheduled Payments due to Agent and Lenders under Section 2.3(b) shall be effected by automatic debit of the appropriate funds from Borrower's operating account specified on the EPS Setup Form (as defined below). As used herein, the term " Collection Account" means the following account of Agent (or such other account as Agent shall identify to Borrower in writing):

Bank Name: Deutsche Bank
Bank Address: New York, NY
ABA Number: 021 001 033
Account Number: 50271079
Account Name: GECC HH Cash Flow Collections
Ref: Pacira/CFN # HFS2845

(e) Withholdings and Increased Costs. All payments shall be made free and clear of any taxes, withholdings, duties, impositions or other charges (other than taxes on the overall net income of any Lender and comparable taxes), such that Agent and Lenders will receive the entire amount of any Obligations (as defined below), regardless of source of payment. If Agent or any Lender shall have determined that the introduction of or any change in, after the date hereof, any law, treaty, governmental (or quasi-governmental) rule, regulation, guideline or order reduces the rate of return on Agent or such Lender's capital as a consequence of its obligations hereunder or increases the cost to Agent or such Lender of agreeing to make or making, funding or maintaining

any Term Loan, then Borrower shall from time to time upon demand by Agent or such Lender (with a copy of such demand to Agent) promptly pay to Agent for its own account or for the account of such Lender, as the case may be, additional amounts sufficient to compensate Agent or such Lender for such reduction or for such increased cost. A certificate as to the amount of such reduction or such increased cost submitted by Agent or such Lender (with a copy to Agent) to Borrower shall be conclusive and binding on Borrower, absent manifest error, provided that, neither Agent nor any Lender shall be entitled to payment of any amounts under this Section 2.3(e) unless it has delivered such certificate to Borrower within 180 days after the occurrence of the changes or events giving rise to the increased costs to, or reduction in the amounts received by, Agent or such Lender. This provision shall survive the termination of this Agreement.

(f) Loan Records. Each Lender shall maintain in accordance with its usual practice accounts evidencing the Obligations of Borrower to such Lender resulting from such Lender's Pro Rata Share of each Term Loan, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement. Agent shall maintain in accordance with its usual practice a loan account on its books to record the Term Loans and any other extensions of credit made by Lenders hereunder, and all payments thereon made by Borrower. The entries made in such accounts shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the Obligations recorded therein; provided, however, that no error in such account and no failure of any Lender or Agent to maintain any such account shall affect the obligations of Borrower to repay the Obligations in accordance with their terms.

(g) Payment of Expenses and other Obligations. Agent is authorized to, and at its sole election may, debit funds from Borrower's operating account specified on the EPS Setup Form (as defined below) to pay all Obligations under this Agreement or any of the other Debt Documents if and to the extent Borrower fails to promptly pay any such amounts as and when due.

2.4. **Prepayments.** Borrower can voluntarily prepay, upon five (5) Business Days' prior written notice to Agent, any Term Loan in full, but not in part. Upon the date of (a) any voluntary prepayment of a Term Loan in accordance with the immediately preceding sentence or (b) any mandatory prepayment of a Term Loan required under this Agreement (whether by acceleration of the Obligations pursuant to Section 8.2 or otherwise), Borrower shall pay to Agent, for the ratable benefit of the Lenders, a sum equal to (i) all outstanding principal plus accrued interest with respect to such Term Loan and (ii) the Final Payment Fee (as such term is defined in Section 2.7(b)) for such Term Loan.

2.5. **Late Fees.** If Agent does not receive any Scheduled Payment or other payment under any Debt Document from any Loan Party within 3 days after its due date, then, at Agent's election, such Loan Party agrees to pay to Agent for the ratable benefit of all Lenders, a late fee equal to (a) 5% of the amount of such unpaid payment or (b) such lesser amount that, if paid, would not cause the interest and fees paid by such Loan Party under this Agreement to exceed the Maximum Lawful Rate (as defined below) (the "Late Fee").

2.6. **Default Rate.** All Term Loans and other Obligations shall bear interest, at the option of Agent or upon the request of the Requisite Lenders (as defined below), from and after the occurrence and during the continuation of an Event of Default (as defined below), at a rate equal to the lesser of (a) 5% above the rate of interest applicable to such Obligations as set forth in Section 2.3(a) immediately prior to the occurrence of the Event of Default and (b) the Maximum Lawful Rate (the "Default Rate"). The application of the Default Rate shall not be interpreted or deemed to extend any cure period or waive any Default or Event of Default or otherwise limit the Agent's or any Lender's right or remedies hereunder. All interest payable at the Default Rate shall be payable on demand.

2.7. **Lender Fees.**

(a) Closing Fee. On the Closing Date, Borrower shall pay to Agent, for the benefit of Lenders in accordance with their Pro Rata Shares, a non-refundable closing fee in an amount equal to $48,750, which fee shall be fully earned when paid.

(b) Final Payment Fee. On the date upon which the outstanding principal amount of any Term Loan is repaid in full, or if earlier, is required to be repaid in full (whether by scheduled payment, voluntary prepayment, acceleration of the Obligations pursuant to Section 8.2 or otherwise), Borrower shall pay to Agent, for the ratable accounts of Lenders, a fee (such fee with respect to any Term Loan, the " Final Payment Fee") equal to (i) 0.45% of the original principal amount of such Term Loan, if such repayment is made or required to be made before the one year anniversary of such Term Loan, (ii) 2.25% of the original principal amount of such Term Loan, if such repayment is made or required to be made on or after the one year anniversary of such Term Loan but before the two year anniversary of such Term Loan, and (iii) 3.50% of the original principal amount of such Term Loan, if such repayment is made or required to be made on or after the two year anniversary of such Term Loan. Each Final Payment Fee shall be deemed to be fully-earned on the Closing Date.

2.8. **Maximum Lawful Rate.** Anything herein, any Note or any other Debt Document (as defined below) to the contrary notwithstanding, the obligations of Loan Parties hereunder and thereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by Agent and Lenders would be contrary to the provisions of any law applicable to Agent and Lenders limiting the highest rate of interest which may be lawfully contracted for, charged or received by Agent and Lenders, and in such event Loan Parties shall pay Agent and Lenders interest at the highest rate permitted by applicable law (" Maximum Lawful Rate"); provided, however, that if at any time thereafter the rate of interest payable hereunder or thereunder is less than the Maximum Lawful Rate, Loan Parties shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Agent and Lenders is equal to the total interest that would have been received had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the making of the Initial Term Loan as otherwise provided in this Agreement, any Note or any other Debt Document.

3. CREATION OF SECURITY INTEREST.

3.1. **Grant of Security Interest.** As security for the prompt payment and performance, whether at the stated maturity, by acceleration or otherwise, of all Term Loans and other debt, obligations and liabilities of any kind whatsoever of Borrower to Agent and Lenders under the Debt Documents (whether for principal, interest, fees, expenses, prepayment premiums, indemnities, reimbursements or other sums, and whether or not such amounts accrue after the filing of any petition in bankruptcy or after the commencement of any insolvency, reorganization or similar proceeding, and whether or not allowed in such case or proceeding), absolute or contingent, now existing or arising in the future, including but not limited to the payment and performance of any outstanding Notes, and any renewals, extensions and modifications of such Term Loans (such indebtedness under the Notes, Term Loans and other debt, obligations and liabilities in connection with the Debt Documents are collectively called the " Obligations"), and as security for the prompt payment and performance by each Guarantor of the Guaranteed Obligations as defined in the Guaranty (as defined below), each Loan Party does hereby grant to Agent, for the benefit of Agent and Lenders, a security interest in the property listed below (all hereinafter collectively called the " Collateral"):

All of such Loan Party's personal property of every kind and nature whether now owned or hereafter acquired by, or arising in favor of, such Loan Party, and regardless of where located, including, without limitation, all accounts, chattel paper (whether tangible or electronic), commercial tort claims, deposit accounts, documents, equipment, financial assets, fixtures, goods, instruments, investment property (including, without limitation, all securities accounts), inventory, letter-of-credit rights, letters of credit, securities, supporting obligations, cash, cash equivalents, any other contract rights (including, without limitation, rights under any license agreements), or rights to the payment of money, and general intangibles (including Intellectual Property, as defined in Section 3.3 below), and all books and records of such Loan Party relating thereto, and in and against all additions, attachments, accessories and accessions to such property, all substitutions, replacements or exchanges therefor, all proceeds, insurance claims, products, profits and other rights to payments not otherwise included in the foregoing (with each of the foregoing terms that are defined in the UCC having the meaning set forth in the UCC).

The Borrower hereby acknowledges that it is a party to (a) that certain Amended and Restated Royalty Interests Assignment Agreement, dated as of March 23, 2007 (as in existence on the date hereof and as certified to Agent and Lenders pursuant to Section 4.1(x), or as amended after the date hereof in accordance with Section 7.11 (a), the "Royalty Assignment Agreement"), by and between Borrower, as seller, and Royalty Securitization Trust I (the "Trust"), as purchaser, pursuant to which Borrower has sold and assigned to Trust the "Assigned Interests" (as defined in the Royalty Assignment Agreement), (b) that certain Amended and Restated Security Agreement, dated as of March 23, 2007 (as in existence on the date hereof and as certified to Agent and Lenders pursuant to Section 4.1(x), or as amended in accordance with Section 7.11(a), the " Royalty Security Agreement"), by and between Borrower and Trust, pursuant to which the Borrower has granted to the Trust a security interest in the "Collateral" (as the term "Collateral" is defined in the Royalty Security Agreement; the "Collateral" under and as defined in the Royalty Security Agreement is referred to herein as the " Royalty Collateral"), and (c) that certain Amended and Restated Lockbox Agreement, dated as of March 23, 2007 (as in existence on the date hereof and as certified to Agent and Lenders pursuant to Section 4.1(x), or as amended in accordance with Section 7.11(a), the " Royalty Lockbox Agreement"), by and among Borrower, Deutsche Bank Trust Company in its capacity as custodian and JPMorgan Chase Bank, N.A. (collectively, the Royalty Assignment Agreement, the Royalty Security Agreement and the Royalty Lockbox Agreement as hereafter referred to as the " Royalty Agreements"). Notwithstanding any provision in this Agreement to the contrary, so long as and to the extent that the terms and conditions of the Royalty Agreements prohibit Borrower from granting a security interest in the Royalty Collateral to Agent or any Lender (or so long as a default under any Royalty Agreement would result from such grant to the Agent or any Lender), the grant of security interest under this Agreement shall not extend to and the term "Collateral" shall not include (i) the Royalty Collateral and (ii) any deposit accounts of Borrower that are subject to the Royalty Lockbox Agreement and are dedicated exclusively to the receipt of royalty payments resulting from the license of the DepoDur and DepoCyt products (such deposit accounts, the " Royalty Deposit Accounts"); provided, however, that if (x) the Royalty Agreements are terminated or (y) the Royalty Agreements are amended to permit Borrower to grant a security interest in the Royalty Collateral to Agent, then the grant of security interest under this Agreement shall automatically extend to, and the term "Collateral" shall automatically include, the Royalty Collateral and the Royalty Deposit Accounts.

Further, notwithstanding any provision in this Agreement to the contrary, the grant of security interest herein shall not extend to and the term "Collateral" shall not include (all of following, together with the Royalty Collateral and the Royalty Deposit Accounts, the " Excluded Assets"): (i) more than 65% of the issued and outstanding voting capital stock of any Subsidiary of the Borrower that is incorporated or organized in a jurisdiction other than the United States or any state or territory thereof, (ii) any "intent-to-use" trademarks at all times prior to the first use thereof, whether by the actual use thereof in

commerce, the recording of a statement of use with the United States Patent and Trademark Office or otherwise, and (iii) any license or contract to the extent and only to the extent that the granting of a security interest in such license or contract is expressly prohibited by any applicable statute, law or regulation, or would constitute a default under or a breach of such license or contract, as applicable, but only to the extent that such prohibition or default is enforceable under applicable law (including without limitation Sections 9-406, 9-407 and 9-408 of the UCC); provided that upon the termination or expiration of any such prohibition, such license or contract, as applicable, shall automatically be subject to the security interest granted in favor of the Agent hereunder and become part of the "Collateral."

Each Loan Party hereby represents and covenants that such security interest constitutes a valid, first priority security interest in the presently existing Collateral, and will constitute a valid, first priority security interest in Collateral acquired after the date hereof. Each Loan Party hereby covenants that it shall give written notice to Agent promptly upon the acquisition by such Loan Party or creation in favor of such Loan Party of any commercial tort claim after the Closing Date.

3.2. **Financing Statements.** Each Loan Party hereby authorizes Agent to file UCC financing statements with all appropriate jurisdictions to perfect Agent's security interest (for the benefit of itself and the Lenders) granted hereby.

3.3. **Grant of Intellectual Property Security Interest.** The Collateral shall include all intellectual property of each Loan Party, which shall be defined as any and all copyright, trademark, tradename, servicemark, patent, invention, design, design right, software and databases, license, trade secret, customer lists, know-how, and intangible rights of each Loan Party, any marketing rights of each Loan Party, and any goodwill, applications, registrations, claims, products, awards, judgments, amendments, renewals, extensions, improvements and insurance claims related thereto (collectively, " Intellectual Property") now or hereafter owned or licensed by a Loan Party, together with all accessions and additions thereto, proceeds and products thereof (including, without limitation, any proceeds resulting under insurance policies); provided, however, that for the avoidance of doubt the Collateral shall not include any Excluded Assets to the extent excluded at any time under the provisions of Section 3.1 hereof. In order to perfect or protect Agent's security interest and other rights in Loan Party's Intellectual Property, each Loan Party hereby authorizes Agent to file a patent security agreement, substantially in the form provided by Agent ("Patent Security Agreement") and/or a trademark security agreement, substantially in the form provided by Agent (" Trademark Security Agreement") with the United States Patent and Trademark Office and a copyright security agreement, substantially in the form provided by Agent (" Copyright Security Agreement" and together with the Patent Security Agreement and the Trademark Security Agreement, the "Intellectual Property Security Agreements"') with the United States Copyright Office as each are applicable and required by Agent; provided that such Intellectual Property Security Agreements shall be consistent with the terms and conditions of this Article 3.

4. CONDITIONS OF CREDIT EXTENSIONS

4.1. **Conditions Precedent to Initial Term Loan.** No Lender shall be obligated to make the Initial Term Loan, or to take, fulfill, or perform any other action hereunder, until the following have been delivered to the Agent (the date on which the Lenders make the Initial Term Loan after all such conditions shall have been satisfied in a manner satisfactory to Agent or waived in accordance with this Agreement, the " Closing Date"):

(a) a counterpart of this Agreement duly executed by each Loan Party;

(b) a certificate executed by the Secretary of each Loan Party, the form of which is attached hereto as Exhibit B (the "Secretary's Certificate"), providing verification of incumbency and attaching (i) such Loan Party's board resolutions approving the transactions contemplated by this Agreement and the other Debt Documents and (ii) such Loan Party's governing documents;

(c) Notes duly executed by Borrower in favor of each applicable Lender;

(d) filed copies of UCC financing statements, collateral assignments, and terminations statements, with respect to the Collateral, as Agent shall request;

(e) certificates of insurance evidencing the insurance coverage, and satisfactory additional insured and lender loss payable endorsements, in each case as required pursuant to Section 6.4 herein;

(f) current UCC lien, judgment, bankruptcy and tax lien search results demonstrating that there are no other security interests or liens on the Collateral, other than Permitted Liens (as defined below);

(g) the applicable Intellectual Property Security Agreements required by Section 3.3 above, duly executed by each Loan Party;

(h) a certificate of good standing of each Loan Party from the jurisdiction of such Loan Party's organization and a certificate of foreign qualification from each jurisdiction where such Loan Party's failure to be so qualified would reasonably be expected to have a Material Adverse Effect (as defined below), in each case as of a recent date acceptable to Agent;

(i) a landlord consent and/or bailee letter in favor of Agent executed by the landlord or bailee, as applicable, for any third party location where (a) any Loan Party's principal place of business, (b) any Loan Party's books or records or (c) Collateral with an aggregate value in excess of $50,000 is located, a form of which is attached hereto as Exhibit C-l and Exhibit C-2, as applicable (each an "Access Agreement"'), to the extent required pursuant to Section 6.6;

(j) a completed EPS set-up form, a form of which is attached hereto as Exhibit E (the "EPS Setup Form").

(k) a completed perfection certificate, duly executed by each Loan Party (the " Perfection Certificate"), a form of which Agent previously delivered to Borrower;

(l) one or more Account Control Agreements (as defined below), in form and substance reasonably acceptable to Agent, duly executed by the applicable Loan Parties and the applicable depository or financial institution, for each deposit and securities account to the extent required pursuant to Section 7.10;

(m) a pledge agreement (which pledge agreement shall be governed by the laws of the state of New York), in form and substance satisfactory to Agent, executed by each Loan Party and pledging to Agent, for the benefit of itself and the Lenders, a security interest in (a) 100% of the shares of the outstanding capital stock, of any class, of each Subsidiary (as defined below) of each Loan Party that is incorporated under the laws of any State of the United States or the District of Columbia, (b) to the extent that the Borrower would incur adverse tax consequences resulting from a pledge of 100% of the shares of the outstanding capital stock of any Subsidiary that is not incorporated under the laws of any State of the United States or the District of Columbia, 65% of the shares of the outstanding voting capital stock and 100% of the shares of the outstanding non-voting capital stock of each such foreign Subsidiary and (c) any and all Indebtedness (as defined in Section 7.2 below) owing to Loan Parties (the " Pledge Agreement");

(n) a guaranty agreement (together with any other guaranty that purports to provide for a guaranty of the Obligation, the " Guaranty"; provided that, for the avoidance of doubt, the term "Guaranty" shall not include the VC Guaranty, as defined below), in form and substance satisfactory to Agent, executed by each Guarantor;

(o) a limited guaranty agreement (the "VC Guaranty"), in form and substance satisfactory to Agent, executed by each of MPM BioVentures IV-QP, L.P., MPM BioVentures IV GmbH & Co. Beteiligungs KG, MPM Asset Management Investors BV4 LLC, Caduceus Private Investments III, LP, Orbimed Associates III, LP, Sanderling Venture Partners VI, L.P., Sanderling Venture Partners VI Co-Investment, L.P., Sanderling VI Beteiligungs GmbH & Co. KG, and Sanderling VI Limited Partnership (each of the foregoing entities a " VC Guarantor" and, collectively, the "VC Guarantors");

(p) a certificate executed by the Secretary of each VC Guarantor, in the same form as Exhibit B hereto, providing verification of incumbency and attaching (i) such VC Guarantor's board resolutions approving the transactions contemplated by the VC Guaranty and (ii) such VC Guarantor's governing documents

(q) a legal opinion of Loan Parties' counsel, in form and substance satisfactory to Agent;

(r) **[Reserved]**;

(s) a disbursement instruction letter, in form and substance satisfactory to Agent, executed by each Loan Party, Agent and each Lender (the "Disbursement Letter");

(t) Agent shall have received evidence that on or before the Closing Date (1) Pacira, Inc. (the " Parent") shall have received unrestricted gross cash proceeds of not less than $7,500,000 (resulting in net cash proceeds of not less than $7,400,000) from the issuance of secured or unsecured subordinated Indebtedness to each of the VC Guarantors and HBM BioVentures (Cayman) Ltd. (" HBM") (such entities, collectively, the "Specified Equityholders") pursuant to that certain Secured Note Purchase Agreement, dated March 10 2010, by and among the Parent and the Specified Equityholders (such Indebtedness, the "Closing Date Subordinated Indebtedness"), and (2) the Parent has contributed all net cash proceeds of such Closing Date Subordinated Indebtedness to Borrower;

(u) Agent shall have received, in form and substance satisfactory to Agent, a global amendment and consent to all agreements and other documents relating to or evidencing Indebtedness (other than the Indebtedness described in Section 4.1(t)) of the Parent or the Borrower issued prior to the Closing Date to any equityholders of Parent (such Indebtedness issued prior to the Closing Date, the " Pre-Closing Subordinated Indebtedness"), which amendment and consent shall (i) reference, acknowledge and agree to the debt and collateral subordination provisions of the Specified Equityholder Subordination Agreement (as defined below), (ii) provide that the maturity date of all such Pre-Closing Subordinated Indebtedness may be made until the earliest of (1) a Corporate Transaction (as defined in such amendment and consent), (2) December 16, 2013, and (3) the date that is at least 91 days after the date on which all of the Obligations are paid in full in cash, all of the Commitments hereunder are terminated, and this Agreement shall have been terminated (such date, the "Termination Date"), (iii) provide

that, notwithstanding the maturity date of such Pre-Closing Subordinated Indebtedness, no payments may be made with respect thereto other than in accordance with the terms and conditions of the Specified Equityholder Subordination Agreement, and (iv) make such other modifications thereto as Agent shall require, and Agent shall have received evidence that such holders have terminated all UCC financing statements naming such holders as secured party and any Loan Party as debtor (provided, however, that such holders may refile UCC financing statements after the Closing Date with a description of collateral that is identical to the UCC financing statements filed by Agent);

(v) a Subordination Agreement, in form and substance satisfactory to Agent, executed by Agent and each holder of Closing Date Subordinated Indebtedness, Pre-Closing Subordinated Indebtedness and HBM Subordinated Indebtedness (as defined in Section 7.2 below), and providing that (1) all Closing Date Subordinated Indebtedness, Pre-Closing Subordinated Indebtedness and HBM Subordinated Indebtedness is subordinated to the prior payment in full in cash of all Obligations and (2) any liens on the Collateral or any other assets of any Loan Party securing any Closing Date Subordinated Indebtedness, Pre-Closing Subordinated Indebtedness or HBM Subordinated Indebtedness are subordinated to all liens granted to Agent to secure the Obligations (the "Specified Equityholder Subordination Agreement");

(w) all other documents and instruments as Agent may reasonably deem necessary or appropriate to effectuate the intent and purpose of this Agreement (together with the Agreement, the Notes, the Intellectual Property Security Agreements, the Account Control Agreements, the Access Agreements, the Perfection Certificate, the Pledge Agreement, the Guaranty, the VC Guaranty, the Secretary's Certificate, the Specified Equityholder Subordination Agreement, any Other Subordination Agreement (as defined in Section 7.2 below) and the Disbursement Letter, and all other agreements, instruments, documents and certificates executed and/or delivered to or in favor of Agent from time to time in connection with this Agreement or the transactions contemplated hereby, the "Debt Documents");

(x) Agent shall have received copies of the fully-executed Royalty Agreements (including any amendments thereto), accompanied by a certificate from an authorized officer of Borrower attesting to that such copies are true and correct; and

(y) Agent and Lenders shall have received the fees required to be paid by Borrower, if any, in the respective amounts specified in Section 2.7, and Borrower shall have reimbursed Agent and Lenders for all fees, costs and expenses of closing presented as of the date of this Agreement.

4.2. **Conditions Precedent to AH Term Loans.** No Lender shall be obligated to make any Term Loan, including the Initial Term Loan, unless the following additional conditions have been satisfied:

(a) (i) all representations and warranties in Section 5 below shall be true as of the date of such Term Loan; (ii) no Event of Default or any other event, which with the giving of notice or the passage of time, or both, would constitute an Event of Default (such event, a " Default") has occurred and is continuing or will result from the making of any Term Loan, and (iii) Agent shall have received a certificate from an authorized officer of each Loan Party confirming each of the foregoing;

(b) Agent shall have received the redelivery or supplemental delivery of the items set forth in the following sections to the extent circumstances have changed since the Initial Term Loan: Sections 4.1(b), (e), (f), (h), (k) and (q);

(c) with respect to each Subsequent Term Loan,

(i) Agent shall have received evidence satisfactory to Agent that immediately prior to the making of such Subsequent Term Loan (1) the Parent shall have received unrestricted net cash proceeds from the issuance after the Closing Date of secured or unsecured subordinated Indebtedness to each of the Specified Equityholders (but not any HBM Subordinated Indebtedness (as defined in Section 7.2 below) issued exclusively to HBM) on terms and conditions identical to the terms and conditions applicable to the Closing Date Subordinated Indebtedness (any such subordinated Indebtedness so issued to each of the Specified Equityholders immediately prior to the advance of a corresponding Subsequent Term Loan, " Post-Closing Specified Equityholder Subordinated Indebtedness "), and (2) the Parent has contributed all net cash proceeds of such Post-Closing Specified Equityholder Subordinated Indebtedness to Borrower;

(ii) The principal amount of such Subsequent Term Loan shall not exceed an amount equal to (1) (A) the aggregate amount of unrestricted net cash proceeds received by Parent and Borrower from the issuance of the Post-Closing Specified Equityholder Subordinated Indebtedness corresponding to such Subsequent Term Loan, divided by (B) $7,400,000, multiplied by (2) $5,625,000;

(iii) the Specified Equityholders and Agent shall have executed a joinder or amendment to the Specified Equityholder Subordination Agreement, in form and substance reasonably satisfactory to the Agent, providing that (1) all such Post-Closing Specified Equityholder Subordinated Indebtedness is subordinated to the prior payment in full in cash of all Obligations and (2) any liens on the Collateral or any other assets of any Loan Party securing any such Post-Closing Specified Equityholder Subordinated Indebtedness are subordinated to all liens granted to Agent to secure the Obligations, in each case pursuant to the terms and conditions of the Specified Equityholder Subordination Agreement; and

(iv) all Account Control Agreements required pursuant to Section 7.10 shall have been executed and delivered to Agent (notwithstanding the 30-day post closing period set forth in Section 7.10); and

(d) Agent shall have received such other documents, agreements, instruments or information as Agent shall reasonably request.

5. REPRESENTATIONS AND WARRANTIES OF LOAN PARTIES.

Each Loan Party, jointly and severally, represents, warrants and covenants to Agent and each Lender that:

5.1. **Due Organization and Authorization.** Each Loan Party's exact legal name is as set forth in the Perfection Certificate and each Loan Party is, and will remain, duly organized, existing and in good standing under the laws of the State of its organization as specified in the Perfection Certificate, has its chief executive office at the location specified in the Perfection Certificate, and is, and will remain, duly qualified and licensed in every jurisdiction wherever necessary to carry on its business and operations, except where the failure to be so qualified and licensed would not reasonably be expected to have a Material Adverse Effect. This Agreement and the other Debt Documents have been duly authorized, executed and delivered by each Loan Party and constitute legal, valid and binding agreements enforceable in accordance with their terms. The execution, delivery and performance by each Loan Party of each Debt Document executed or to be executed by it is in each case within such Loan Party's powers.

5.2. **Required Consents.** No filing, registration, qualification with, or approval, consent or withholding of objections from, any governmental authority or instrumentality or any other entity or person is required with respect to the entry into, or performance by any Loan Party of, any of the Debt Documents, except any already obtained.

5.3. **No Conflicts.** The entry into, and performance by each Loan Party of, the Debt Documents will not (a) violate any of the organizational documents of such Loan Party, (b) violate any law, rule, regulation, order, award or judgment applicable to such Loan Party, or (c) result in any breach of or constitute a default under, or result in the creation of any lien, claim or encumbrance on any of such Loan Party's property (except for liens in favor of Agent, on behalf of itself and Lenders) pursuant to, any indenture, mortgage, deed of trust, bank loan, credit agreement, or other Material Agreement (as defined below) to which such Loan Party is a party. As used herein, "Material Agreement" means (i) each agreement relating to any of the Closing Date Subordinated Indebtedness, the Pre-Closing Subordinated Indebtedness, the HBM Subordinated Indebtedness (as defined in Section 7.2 below), the Other Subordinated Indebtedness (as defined in Section 7.2 below) and the Post-Closing Specified Equityholder Subordinated Indebtedness (collectively, the " Subordinated Indebtedness"), (ii) the Royalty Agreements and any other agreement executed in connection therewith, (iii) any agreement or contract to which such Loan Party is a party and involving the receipt or payment of amounts in the aggregate exceeding $500,000 per year and (iv) any agreement or contract to which such Loan Party is a party the termination of which would reasonably be expected to have a Material Adverse Effect. A description of all Material Agreements as of the Closing Date is set forth on Schedule B hereto.

5.4. **Litigation.** There are no actions, suits, proceedings or investigations pending against or affecting any Loan Party before any court, federal, state, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or any basis thereof, which involves the possibility of any judgment or liability that would reasonably be expected to have a Material Adverse Effect, or which questions the validity of the Debt Documents, or the other documents required thereby or any action to be taken pursuant to any of the foregoing, nor does any Loan Party have reason to believe that any such actions, suits, proceedings or investigations are threatened. As used in this Agreement, the term " Material Adverse Effect" means a material adverse effect on any of (a) the operations, business, assets, properties, or condition (financial or otherwise) of Borrower, individually, or the Loan Parties, collectively, (b) the ability of a Loan Party to perform any of its obligations under any Debt Document to which it is a party, (c) the legality, validity or enforceability of any Debt Document, (d) the rights and remedies of Agent or Lenders under any Debt Document or (e) the validity, perfection or priority of any lien in favor of Agent, on behalf of itself and Lenders, on any of the Collateral; provided, however, that for the avoidance of doubt, any actual cash burn of the Loan Parties that is consistent with the cash burn for the Loan Parties described in the most recent annual operating plan of Parent and its Subsidiaries delivered to Agent and Lenders in accordance with Section 6.3 will not constitute a "Material Adverse Effect."

5.5. **Financial Statements.** All financial statements delivered to Agent and Lenders pursuant to Section 6.3 fairly present in all material respects the financial condition and operating results of the Parent as of the dates, and for the periods, indicated therein, subject in each case to normal quarter-end adjustments. There has been no material adverse deviation from the most recent annual operating plan of Parent and its Subsidiaries delivered to Agent and Lenders in accordance with Section 6.3.

5.6. **Use of Proceeds.** The proceeds of the Term Loans shall be used for working capital and general corporate purposes.

5.7. **Collateral.** Each Loan Party is, and will remain, the sole and lawful owner, and in possession of, the Collateral, and has the sole right and lawful authority to grant the security interest described in this Agreement. The Collateral is, and will remain, free and clear of all liens, claims and encumbrances of any kind whatsoever, except for (a) liens in favor of Agent, on behalf of itself and Lenders, to secure the Obligations, (b) liens (i) with respect to the payment of taxes, assessments or other governmental charges or (ii) of suppliers, carriers, materialmen, warehousemen, workmen or mechanics and other similar liens, in each case imposed by law and arising in the ordinary course of business, and securing amounts that are not yet due or that are being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves or other appropriate provisions are maintained on the books of the applicable Loan Party in accordance with GAAP and which do not involve, in the judgment of Agent, any risk of the sale, forfeiture or loss of any of the Collateral (a "Permitted Contest"), (c) liens existing on the date hereof and set forth on Schedule B hereto, (d) liens securing Indebtedness (as defined in Section 7.2 below) permitted under Section 7.2(c) below, provided that (i) such liens exist prior to the acquisition of, or attach substantially simultaneous with, or within 20 days after the, acquisition, repair, improvement or construction of, such property financed by such Indebtedness and (ii) such liens do not extend to any property of a Loan Party other than the property (and proceeds thereof) acquired or built, or the improvements or repairs, financed by such Indebtedness, (e) licenses described in Section 7.3(d) below, (f) liens securing the Subordinated Indebtedness, but only to the extent that such liens are subordinated to the liens in favor of Agent securing the Obligations pursuant to the terms and conditions of the Specified Equityholder Subordination Agreement or any Other Subordination Agreement, as applicable, and (g) the lien of Silicon Valley Bank in that certain Certificate of Deposit No. 8800063623 issued by Silicon Valley Bank to Borrower or any subsequent certificates of deposit issued in replacement or continuation thereof, in all cases in an amount not to exceed $15,000 at any time (the "Certificate of Deposit"), which lien in such Certificate of Deposit secures the repayment of Borrower's obligations to Silicon Valley from time to time associated with the use by Borrower's employees of certain business credit cards issued by Silicon Valley Bank (the " Credit Card Obligations"); provided that the Certificate of Deposit shall be terminated promptly if the Borrower ceases to use business credit cards issued by Silicon Valley Bank, and the proceeds of such terminated Certificate of Deposit shall be transferred promptly to a deposit account subject to Section 7.10 (all of such liens described in the foregoing clauses (a) through (g) are called " Permitted Liens").

5.8. **Compliance with Laws.**

(a) Each Loan Party is and will remain in compliance in all respects with all laws, statutes, ordinances, rules and regulations applicable to it, except to the extent that any such non-compliance, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(b) Without limiting the generality of the immediately preceding clause (a), each Loan Party further agrees that it and each of its subsidiaries is and will remain in compliance in all material respects with all U.S. economic sanctions laws, Executive Orders and implementing regulations as promulgated by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), and all applicable anti-money laundering and counter-terrorism financing provisions of the Bank Secrecy Act and all regulations issued pursuant to it. No Loan Party nor any of its subsidiaries, affiliates or joint ventures (i) is a person or entity designated by the U.S. Government on the list of the Specially Designated Nationals and Blocked Persons (the "SDN List") with which a U.S. person or entity cannot deal with or otherwise engage in business transactions, (ii) is a person or entity who is otherwise the target of U.S. economic sanctions laws such that a U.S. person or entity cannot deal or otherwise engage in business transactions with such person or entity, or (iii) is controlled by (including without limitation by virtue of such person being a director or owning voting shares or interests), or acts, directly or indirectly, for or

on behalf of, any person or entity on the SDN List or a foreign government that is the target of U.S. economic sanctions prohibitions such that the entry into, or performance under, this Agreement or any other Debt Document would be prohibited under U.S. law.

(c) Each Loan Party and each of its subsidiaries is in compliance with (i) the Trading with the Enemy Act of 1917, Ch. 106, 40 Stat. 411, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (i) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56, as amended, and (iii) other federal or state laws relating to "know your customer" and anti-money laundering rules and regulations. No part of the proceeds of any Loan will be used directly or indirectly for any payments to any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977.

(d) Each Loan Party has met the minimum funding requirements of the United States Employee Retirement Income Security Act of 1974 (as amended, "ERISA") with respect to any employee benefit plans subject to ERISA. No Loan Party is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940. No Loan Party is engaged principally, or as one of the important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T, U and X of the Board of Governors of the Federal Reserve System (the " Federal Reserve Board").

5.9. **Intellectual Property.** The Intellectual Property is and will remain free and clear of all liens, claims and encumbrances of any kind whatsoever, except for Permitted Liens described in clauses (b)(i), (e) and (f) of Section 5.7 and any liens of the Trust in the Royalty Collateral. No Loan Party has nor will it enter into any other agreement or financing arrangement (other than the Royalty Agreements) in which a negative pledge in such Loan Party's Intellectual Property (other than any Royalty Collateral) is granted to any other party. As of the Closing Date and each date a Term Loan is advanced to Borrower, no Loan Party has any interest in, or title to any registered Intellectual Property except as disclosed in the Perfection Certificate and as disclosed to the Agent in writing after the Closing Date in accordance with Section 6.2. Upon filing of the Intellectual Property Security Agreements with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, and the filing of appropriate financing statements, all action necessary or desirable to protect and perfect Agent's lien on each Loan Party's Intellectual Property (to the extent not constituting Excluded Assets) shall have been duly taken. Each Loan Party owns or has rights to use all Intellectual Property material to the conduct of its business as now or heretofore conducted by it or presently proposed to be conducted by it, without any actual or claimed infringement upon the rights of third parties.

5.10. **Solvency.** Both before and after giving effect to each Term Loan, the transactions contemplated herein, and the payment and accrual of all transaction costs in connection with the foregoing, each Loan Party is and will be Solvent. As used herein, " Solvent" means, with respect to a Loan Party on a particular date, that on such date (a) the fair value of the property of such Loan Party is greater than the total amount of liabilities, including contingent liabilities, of such Loan Party; (b) the present fair salable value of the assets of such Loan Party is not less than the amount that will be required to pay the probable liability of such Loan Party on its debts as they become absolute and matured; (c) such Loan Party does not intend to, and does not believe that it will, incur debts or liabilities beyond such Loan Party's ability to pay as such debts and liabilities mature; (d) such Loan Party is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Loan

Party's property would constitute an unreasonably small capital; and (e) such Loan Party is not "insolvent" within the meaning of Section 101(32) of the United States Bankruptcy Code (11 U.S.C. § 101, et. seq), as amended from time to time. The amount of contingent liabilities (such as litigation, guaranties and pension plan liabilities) at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, represents the amount that can be reasonably be expected to become an actual or matured liability.

5.11. **Taxes; Pension.** All federal (and all material state and local) tax returns, reports and statements, including information returns, required by any governmental authority to be filed by each Loan Party and its Subsidiaries have been filed with the appropriate governmental authority and all federal (and all material state and local) taxes, levies, assessments and similar charges have been paid prior to the date on which any fine, penalty, interest or late charge may be added thereto for nonpayment thereof (or any such fine, penalty, interest, late charge or loss has been paid), excluding taxes, levies, assessments and similar charges or other amounts which are the subject of a Permitted Contest. Proper and accurate amounts have been withheld by each Loan Party from its respective employees for all periods in compliance with applicable laws and such withholdings have been timely paid to the respective governmental authorities. Each Loan Party has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and no Loan Party has withdrawn from participation in, or has permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan, in each case which would reasonably be expected to result in any liability of a Loan Party, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental authority.

5.12. **Full Disclosure.** Loan Parties hereby confirm that all of the information disclosed on the Perfection Certificate is true, correct and complete as of the date of this Agreement and as of the date of each Term Loan. No representation, warranty or other statement made by or on behalf of a Loan Party contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein not misleading, it being recognized by Agent and Lenders that the projections and forecasts provided by Loan Parties in good faith and based upon reasonable and stated assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results.

6. AFFIRMATIVE COVENANTS.

6.1. **Good Standing.** Each Loan Party shall maintain its and each of its Subsidiaries' existence and good standing in its jurisdiction of organization and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a Material Adverse Effect. Each Loan Party shall maintain, and shall cause each of its Subsidiaries to maintain, in full force all licenses, approvals and agreements, the loss of which would reasonably be expected to have a Material Adverse Effect. "Subsidiary" means, with respect to a Loan Party, any entity the management of which is, directly or indirectly controlled by, or of which an aggregate of more than 50% of the outstanding voting capital stock (or other voting equity interest) is, at the time, owned or controlled, directly or indirectly by, such Loan Party or one or more Subsidiaries of such Loan Party, and, unless the context otherwise requires each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower.

6.2. **Notice to Agent.** Loan Parties shall provide Agent with (a) notice of the occurrence of any Default or Event of Default, promptly (but in any event within 3 days) after the date on which any officer of a Loan Party obtains knowledge of the occurrence of any such event, (b) copies of all statements, reports and notices made available generally by any Loan Party to its securityholders or to any holders of Subordinated Indebtedness (in their capacity as holders of such Subordinated Indebtedness), all notices sent to any Loan Party by the holders of any Subordinated Indebtedness, and all documents filed with the

Securities and Exchange Commission ("SEC") or any securities exchange or governmental authority exercising a similar function, promptly, but in any event within 3 days of delivering or receiving such information to or from such persons, (c) a report of any legal actions pending or threatened against any Loan Party or any Subsidiary that would reasonably be expected to result in damages or costs to any Loan Party or any Subsidiary of $250,000 or more promptly, but in any event within 3 days, upon receipt of notice thereof, (d) at the time of the delivery of the monthly financial reporting for the months of March, June, September and December of each calendar year as required pursuant to Section 6.3, a summary of any new applications or registrations that any Loan Party has made or filed in respect of any Intellectual Property or a change in status of any outstanding application or registration, in each case since the prior such summary was delivered pursuant to this clause (d), and (e) notice of any amendments to, and copies of all material statements, reports and notices delivered to or by a Loan Party in connection with, any Material Agreement promptly (but in any event within 3 Business Days) upon execution or receipt thereof.

6.3. **Financial Statements.** Borrower shall deliver to Agent and Lenders (a) unaudited consolidated and, if available, consolidating balance sheets, statements of operations and cash flow statements with respect to the Parent and its Subsidiaries within 45 days of each month end, in a form consistent with the form historically prepared by the Parent (and which is reasonably acceptable to Agent) and certified by Parent's president, chief executive officer or chief financial officer as fairly presenting in all material respects the financial condition and operating results of the Parent and its Subsidiaries as of the dates, and for the periods, indicated therein, subject in each case to normal quarter-end adjustments, and (b) complete annual unaudited consolidated and, if available, consolidating financial statements with respect to the Parent and its Subsidiaries prepared under GAAP within 120 days after the end of each fiscal year ending on or after December 31, 2010 (provided that such annual unaudited financial statements for the fiscal year ending December 31, 2010 shall be delivered 150 days after the end of such fiscal year). All financial statements delivered pursuant to this Section 6.3 shall be accompanied by a compliance certificate, signed by the chief financial officer of Borrower, in the form attached hereto as Exhibit D, and a management discussion and analysis that includes a comparison to budget for the respective fiscal period and a comparison of performance for such fiscal period to the corresponding period in the prior year. Borrower shall deliver to Agent and Lenders (i) as soon as available and in any event not later than 60 days after the end of each fiscal year of Borrower, an annual operating plan for Borrower, on a consolidated and, if available, consolidating basis, approved by the Board of Directors of Borrower, for the current fiscal year, in form and substance reasonably satisfactory to Agent and (ii) such budgets, sales projections, or other business, financial, corporate affairs and other information as Agent or any Lender may reasonably request from time to time.

6.4. **Insurance.** Each Loan Party, at its expense, shall maintain, and shall cause each Subsidiary to maintain, insurance (including, without limitation, comprehensive general liability, hazard, and business interruption insurance) with respect to all of its properties and businesses (including, the Collateral), in such amounts and covering such risks as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated and in any event with deductible amounts, insurers and policies that shall be reasonably acceptable to Agent. Borrower shall deliver to Agent certificates of insurance evidencing such coverage, together with endorsements to such policies naming Agent as a lender loss payee or additional insured, as appropriate, in form and substance satisfactory to Agent. Each policy shall provide that coverage may not be canceled or altered by the insurer except upon 30 days (or, in the case of non-payment of premiums, 10 days) prior written notice to Agent and shall not be subject to co-insurance. Each Loan Party appoints Agent as its attorney-in-fact to make, settle and adjust all claims under and decisions with respect to such Loan Party's policies of insurance, and to receive payment of and execute or endorse all documents, checks or drafts in connection with insurance payments. Agent shall not act as such Loan Party's attorney-in-fact unless an Event of Default has occurred and is continuing. The appointment of Agent as any Loan Party's attorney in fact is

a power coupled with an interest and is irrevocable until all of the Obligations are indefeasibly paid in full. Proceeds of insurance shall be applied, at the option of Agent, to repair or replace the Collateral or to reduce any of the Obligations.

6.5. **Taxes.** Each Loan Party shall, and shall cause each Subsidiary to, timely file all federal (and all material state and local) tax reports and pay and discharge all federal (and all material state and local) taxes, assessments and governmental charges or levies imposed upon it, or its income or profits or upon its properties or any part thereof, before the same shall be in default and before the date on which penalties attach thereto, except to the extent such taxes, assessments and governmental charges or levies are the subject of a Permitted Contest.

6.6. **Agreement with Landlord/Bailee.** Unless otherwise agreed to by the Agent in writing, each Loan Party shall use reasonable best efforts to obtain and maintain Access Agreement(s) with respect to any real property on which (a) a Loan Party's principal place of business, (b) a Loan Party's books or records or (c) Collateral with an aggregate value in excess of $50,000 is located (other than real property owned by such Loan Party). With respect to any real property described in the immediately preceding sentence where the Loan Parties have not obtained an Access Agreement, each compliance certificate issued pursuant to Section 6.3 shall contain a certificate that no default or event of default exists under any lease applicable to such real property, and upon the request of Agent, the Loan Parties shall deliver to Agent evidence in form reasonably satisfactory to Agent that the applicable Loan Party has made rental payments with respect to any such lease.

6.7. **Protection of Intellectual Property.** Each Loan Party shall take all necessary actions to: (a) protect, defend and maintain the validity and enforceability of its Intellectual Property to the extent material to the conduct of its business now or heretofore conducted by it or proposed to be conducted by it, in each case as the applicable Loan Party in its reasonable discretion determines is appropriate, (b) promptly advise Agent in writing of material infringements of its Intellectual Property and, should the Intellectual Property be material to such Loan Party's business, take all appropriate actions to enforce its rights in its Intellectual Property against infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, (c) not allow any Intellectual Property material to such Loan Party's business to be abandoned, forfeited or dedicated to the public, and (d) notify Agent promptly, but in any event within 3 Business Days, if it knows or has reason to know that any application or registration relating to any patent, trademark or copyright (now or hereafter existing) material to its business may become abandoned or dedicated, or if any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding such Loan Party's ownership of any Intellectual Property material to its business, its right to register the same, or to keep and maintain the same. Each Loan Party shall remain liable under each of its Intellectual Property licenses pursuant to which it is a licensee ("Licenses") to observe and perform all of the conditions and obligations to be observed and performed by it thereunder. None of Agent or any Lender shall have any obligation or liability under any such License by reason of or arising out of this Agreement, the granting of a lien, if any, in such License or the receipt by Agent (on behalf of itself and Lenders) of any payment relating to any such License. None of Agent or any Lender shall be required or obligated in any manner to perform or fulfill any of the obligations of any Loan Party under or pursuant to any License, or to make any payment, or to make any inquiry as to the nature or the sufficiency of any payment received by it or the sufficiency of any performance by any party under any License, or to present or file any claims, or to take any action to collect or enforce any performance or the payment of any amounts which may have been assigned to it or which it may be entitled at any time or times.

6.8. **Special Collateral Covenants.**

(a) Each Loan Party shall remain in possession of its respective Collateral solely at the location(s) specified on the Perfection Certificate; except that Agent, on behalf of itself and Lenders, shall have the right to possess (i) any chattel paper or instrument that constitutes a part of the Collateral, (ii) any other Collateral in which Agent's security interest (on behalf of itself and Lenders) may be perfected only by possession and (iii) any Collateral after the occurrence of an Event of Default in accordance with this Agreement and the other Debt Documents.

(b) Each Loan Party shall (i) use the Collateral only in its trade or business, (ii) maintain all of the Collateral in good operating order and repair, normal wear and tear excepted, and (iii) use and maintain the Collateral only in compliance with manufacturers' recommendations and all applicable laws.

(c) Agent and Lenders do not authorize and each Loan Party agrees it shall not (i) part with possession of any of the Collateral (except to Agent (on behalf of itself and Lenders), for maintenance and repair or for a Permitted Disposition), or (ii) remove any of the Collateral from the continental United States.

(d) Each Loan Party shall pay promptly when due all taxes, license fees, assessments and public and private charges levied or assessed on any of the Collateral, on its use, or on this Agreement or any of the other Debt Documents. At its option, Agent may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral and may pay for the maintenance, insurance and preservation of the Collateral and effect compliance with the terms of this Agreement or any of the other Debt Documents. Each Loan Party agrees to reimburse Agent, on demand, all costs and expenses incurred by Agent in connection with such payment or performance and agrees that such reimbursement obligation shall constitute Obligations.

(e) Each Loan Party shall, at all times, keep accurate and complete records of the Collateral.

(f) Each Loan Party agrees and acknowledges that any third person who may at any time possess all or any portion of the Collateral shall be deemed to hold, and shall hold, the Collateral as the agent of, and as pledge holder for, Agent (on behalf of itself and Lenders). Agent may at any time give notice to any third person described in the preceding sentence that such third person is holding the Collateral as the agent of, and as pledge holder for, Agent (on behalf of itself and Lenders).

(g) Each Loan Party shall, during normal business hours, and in the absence of a Default or an Event of Default, upon one Business Day's prior notice, as frequently as Agent determines to be appropriate: (i) provide Agent (who may be accompanied by representatives of any Lender) and any of its officers, employees and agents access to the properties, facilities, advisors and employees (including officers) of each Loan Party and to the Collateral, (ii) permit Agent (who may be accompanied by representatives of any Lender), and any of its officers, employees and agents, to inspect, audit and make extracts from any Loan Party's books and records (or at the request of Agent, deliver true and correct copies of such books and records to Agent), and (iii) permit Agent (who may be accompanied by representatives of any Lender), and its officers, employees and agents, to inspect, audit, appraise, review, evaluate and make test verifications and counts of the Collateral of any Loan Party. Upon Agent's request, each Loan Party will promptly notify Agent in writing of the location of any Collateral. If a Default or

Event of Default has occurred and is continuing or if access is necessary to preserve or protect the Collateral as determined by Agent, each such Loan Party shall provide such access to Agent and to each Lender at all times and without advance notice. Each Loan Party shall make available to Agent and its auditors or counsel, as quickly as is possible under the circumstances, originals or copies of all books and records that Agent may reasonably request.

6.9. **Further Assurances.** Each Loan Party shall, upon request of Agent, furnish to Agent such further information, execute and deliver to Agent such documents and instruments (including, without limitation, UCC financing statements) and shall do such other acts and things as Agent may at any time reasonably request relating to the perfection or protection of the security interest created by this Agreement or for the purpose of carrying out the intent of this Agreement and the other Debt Documents.

6.10. **Compliance with Law.** Each Loan Party shall comply with all applicable statutes, rules, regulations, standards, guidelines, policies and orders administered or issued by any governmental authority having jurisdiction over it or its business, except where the failure to comply would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

7. NEGATIVE COVENANTS

7.1. **Liens.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, create, incur, assume or permit to exist any lien, security interest, claim or encumbrance or grant any negative pledges on any Collateral, except for Permitted Liens and Permitted Dispositions. After the Royalty Agreements have been terminated, no Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, (1) create, incur, assume or permit to exist any lien, security interest, claim or encumbrance on any assets that formerly constituted Royalty Collateral (other than Permitted Liens) or (2) grant any negative pledges on any assets that formerly constituted Royalty Collateral.

7.2. **Indebtedness.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, directly or indirectly create, incur, assume, permit to exist, guarantee or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness (as hereinafter defined), except for (a) the Obligations, (b) Indebtedness existing on the date hereof and set forth on Schedule B to this Agreement, and any refinancings of such Indebtedness (other than any Subordinated Indebtedness) that do not increase the principal amount of such Indebtedness, do not shorten the maturity thereof and are otherwise on terms no less favorable to the Loan Parties than those of the Indebtedness being refinanced, (c) Indebtedness consisting of capitalized lease obligations and purchase money Indebtedness, in each case incurred by Borrower or any of its Subsidiaries to finance the acquisition, repair, improvement or construction of fixed or capital assets of such person, provided that (i) the aggregate outstanding principal amount of all such Indebtedness does not exceed $1,000,000 at any time and (ii) the principal amount of such Indebtedness does not exceed the lower of the cost or fair market value of the property so acquired or built or of such repairs or improvements financed with such Indebtedness (each measured at the time of such acquisition, repair, improvement or construction is made), (d) any Post-Closing Specified Equityholder Subordinated Indebtedness issued prior to the advance of a Subsequent Term Loan in accordance with Section 4.2(c), provided that (i) such Post-Closing Specified Equityholder Subordinated Indebtedness is subject to the terms and conditions of the Specified Equityholder Subordination Agreement and (ii) the documents governing such Post-Closing Specified Equityholder Subordinated Indebtedness provide that no payments may be made with respect thereto other than in accordance with the terms and conditions of the Specified Equityholder Subordination Agreement, (e) additional secured or unsecured subordinated Indebtedness issued by Parent exclusively to HBM (or a fund or company controlled by HBM) on terms and conditions substantially similar to the Post-Closing Specified Equityholder Subordinated Indebtedness (the " HBM Subordinated Indebtedness"), provided that (i) all such HBM Subordinated Indebtedness is subject to the terms and conditions of the Specified

Equityholder Subordination Agreement and (ii) the documents governing such HBM Subordinated Indebtedness provide that no payments may be made with respect thereto other than in accordance with the terms and conditions of the Specified Equityholder Subordination Agreement, (f) additional secured or unsecured subordinated Indebtedness issued by Parent to any holder on terms and conditions substantially similar to the Post-Closing Specified Equityholder Subordinated Indebtedness (the "Other Subordinated Indebtedness"), provided that (i) on or before the date of the issuance of such Other Subordinated Indebtedness, the holders of such Indebtedness and Agent shall have executed a Subordination Agreement substantially identical to the Specified Equityholder Subordination Agreement pursuant to which (1) all Other Subordinated Indebtedness is subordinated to the prior payment in full in cash of all Obligations and (2) any liens on the Collateral or any other assets of any Loan Party securing any Other Subordinated Indebtedness are subordinated to all liens granted to Agent to secure the Obligations (the "Other Subordination Agreement") and (ii) the documents governing such Other Subordinated Indebtedness provide that no payments may be made with respect thereto other than in accordance with the terms and conditions of the Other Subordination Agreement, and (g) Indebtedness owing by any Loan Party to another Loan Party, provided that (i) each Loan Party shall have executed and delivered to each other Loan Party a demand note (each, an "Intercompany Note") to evidence such intercompany loans or advances owing at any time by each Loan Party to the other Loan Parties, which Intercompany Note shall be in form and substance reasonably satisfactory to Agent and shall be pledged and delivered to Agent pursuant to the Pledge Agreement as additional Collateral for the Obligations, (ii) any and all Indebtedness of any Loan Party to another Loan Party shall be subordinated to the Obligations pursuant to the subordination terms set forth in each Intercompany Note, and (iii) no Default or Event of Default would occur either before or after giving effect to any such Indebtedness. The term "Indebtedness" means, with respect to any person, at any date, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, or upon which interest payments are customarily made, (iii) all obligations of such person to pay the deferred purchase price of property or services, but excluding obligations to trade creditors incurred in the ordinary course of business and not past due by more than 90 days, (iv) all capital lease obligations of such person, (v) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product, (vi) all obligations of such person to purchase securities (or other property) which arise out of or in connection with the issuance or sale of the same or substantially similar securities (or property), (vii) all contingent or non-contingent obligations of such person to reimburse any bank or other person in respect of amounts paid under a letter of credit or similar instrument, (viii) all equity securities of such person subject to repurchase or redemption otherwise than at the sole option of such person, (ix) all "earnouts" and similar payment obligations of such person, (x) all indebtedness secured by a lien on any asset of such person, whether or not such indebtedness is otherwise an obligation of such person, (xi) all obligations of such person under any foreign exchange contract, currency swap agreement, interest rate swap, cap or collar agreement or other similar agreement or arrangement designed to alter the risks of that person arising from fluctuations in currency values or interest rates, in each case whether contingent or matured, and (xii) all obligations or liabilities of others guaranteed by such person.

7.3. **Dispositions.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, convey, sell, rent, lease, sublease, mortgage, license, transfer or otherwise dispose of (collectively, "Transfer") any of the Collateral or any Intellectual Property, except for the following (collectively, "Permitted Dispositions"): (a) sales of inventory in the ordinary course of business, (b) dispositions by a Loan Party or any of its Subsidiaries of tangible assets for cash and fair value so long as (i) no Default or Event of Default exists at the time of such disposition or would be caused after giving effect thereto and (ii) the fair market value of all such assets disposed of does not exceed $150,000 in any calendar year, (c) the Transfer of the "Assigned Interests" (as such term is defined in the Royalty Assignment Agreement) pursuant to the terms and conditions of the Royalty Assignment Agreement, and (d) non-exclusive and exclusive licenses for the use of any Loan Party's Intellectual Property in the course of such Loan Party's

business, so long as, with respect to each such license, (i) no Event of Default has occurred or is continuing at the time of such Transfer, (ii) the license constitutes an arms-length transaction in the course of such Loan Party's business (and in the case of an exclusive license, made in connection with a bona fide transaction and approved by the board of directors of the applicable Loan Party) and the terms of which do not describe such license as a sale or assignment of any Loan Party's Intellectual Property and do not restrict such Loan Party's ability to pledge, grant a security interest in or lien on, or assign or otherwise Transfer any Intellectual Property, (iii) in the case of an exclusive license or a non-exclusive license that must be approved by the board of directors of the applicable Loan Party, the applicable Loan Party delivers ten (10) days prior written notice and a brief summary of the terms of the license to Agent, (iv) in the case of an exclusive license or a non-exclusive license that must be approved by the board of directors of the applicable Loan Party, the applicable Loan Party delivers to Agent copies of the final executed licensing documents in connection with the license promptly upon consummation of the license and (v) all royalties, milestone payments or other proceeds arising from the licensing agreement are paid to a deposit account that is governed by an Account Control Agreement. If requested by any Loan Party, Agent will promptly execute and deliver to such Loan Party a non-disturbance and attornment agreement in a form acceptable to Agent with respect to any license described in clause (d) above after such Loan Party delivers a copy of such final draft or fully-executed license to Lender.

7.4. **Change in Name, Location or Executive Office; Change in Business; Change in Fiscal Year.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, (a) change its name or its state of organization without the prior written consent of Agent (such consent not to be unreasonably withheld), (b) relocate its chief executive office without 30 days prior written notification to Agent, (c) engage in any business other than or reasonably related or incidental to the businesses currently engaged in by such Loan Party or Subsidiary, (d) cease to conduct business substantially in the manner conducted by such Loan Party or Subsidiary as of the date of this Agreement or (e) change its fiscal year end.

7.5. **Mergers or Acquisitions.** No Loan Party shall merge or consolidate, and no Loan Party shall permit any of its Subsidiaries to merge or consolidate, with or into any other person or entity (other than mergers of a Subsidiary into Borrower in which Borrower is the surviving entity) or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another person or entity or all or substantially all of the assets constituting any line of business, division, branch, operating division or other unit operation of another person or entity.

7.6. **Restricted Payments.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, (a) declare or pay any dividends or make any other distribution or payment on account of or redeem, retire, defease or purchase any capital stock (other than (1) the payment of dividends to Borrower and (2) repurchases of Parent's stock from former employees of Parent and Borrower resulting from the death, disability or retirement of such employees in an amount not to exceed $200,000 in any fiscal year for all such former employees), (b) purchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness prior to its scheduled maturity (except for prepayments of Indebtedness not constituting Subordinated Debt, so long as (1) the aggregate principal amount of such prepaid Indebtedness does not exceed $500,000 in any calendar year and (2) no Default or Event of Default has occurred and is continuing at the time of any such prepayment or would result from such prepayment), (c) purchase or make any payment on or with respect to any Subordinated Indebtedness (except to the extent expressly permitted in the Specified Equityholder Subordination Agreement or the Other Subordination Agreement, as applicable), (d) make any payment in respect of management fees or consulting fees (or similar fees) to any equityholder or other affiliate of Borrower or Parent, (e) make any payments to the Trust other than scheduled periodic payments required to be made pursuant to the terms and conditions of the Royalty Assignment Agreement, (f) be a party to or bound by an agreement that restricts a Subsidiary from paying dividends or otherwise distributing

property to Borrower, or (g) make any payments on account of intercompany Indebtedness permitted under Section 7.2(g) (except in accordance with the terms of the applicable Intercompany Note then in effect with respect to such intercompany Indebtedness).

7.7. **Investments.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, directly or indirectly (a) acquire or own, or make any loan, advance or capital contribution (an "Investment") in or to any person or entity (including without limitation to any Subsidiary of the Borrower that is not a Loan Party, but excluding any loan permitted under the terms and conditions set forth in Section 7.2(g)), (b) acquire or create any Subsidiary, or (c) engage in any joint venture or partnership with any other person or entity, other than: (i) Investments existing on the date hereof and set forth on Schedule B to this Agreement, (ii) Investments in cash and Cash Equivalents (as defined below), (iii) Investments by the Parent in or to the Borrower, (iv) Investments pursuant to any investment policy adopted by the Borrower after the Closing Date and approved by the Agent, (v) Investments in the form of joint ventures, partnerships or equity investments in other persons so long as such Investments (A) shall not exceed, with respect to the portion of such Investment payable in cash, $500,000 in the aggregate for all such Investments during the term hereof, (B) shall be businesses substantially of the type '(or related to the type) engaged in by such Loan Parties as of the Closing Date and (C) no Default or Event of Default shall have occurred and be continuing at the time of any such Investment, (vi) Investments of funds held exclusively in the Royalty Accounts, to the extent such Investments are made in accordance with the terms and conditions of the Royalty Lockbox Agreement, and (vii) loans or advances to employees of Borrower or any of its Subsidiaries to finance travel, entertainment and relocation expenses and other ordinary business purposes in the ordinary course of business as presently conducted, provided that the aggregate outstanding principal amount of all loans and advances permitted pursuant to this clause (v) shall not exceed $25,000 at any time (collectively, the " Permitted Investments"). The term "Cash Equivalents" means (v) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (w) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-l" from Moody's, (x) any commercial paper rated at least " A-1" by S&P or "P-1" by Moody's and issued by any entity organized under the laws of any state of the United States, (y) any U.S. dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) Agent or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 or (z) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (v), (w), (x) or (y) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (v), (w), (x) and (y) above shall not exceed 365 days. For the avoidance of doubt, "Cash Equivalents" does not include (and each Loan Party is prohibited from purchasing or purchasing participations in) any auction rate securities or other corporate or municipal bonds with a long-term nominal maturity for which the interest rate is reset through a Dutch auction.

7.8. **Transactions with Affiliates.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, directly or indirectly enter into or permit to exist any transaction with any Affiliate (as defined below) of a Loan Party or any Subsidiary of a Loan Party except for (1) Subordinated Indebtedness and equity transactions with the Specified Equityholders (or any funds or companies

controlled by the Specified Equityholders) that are not prohibited under the terms and conditions of this Agreement and (2) transaction that are in the ordinary course of such Loan Party's or such Subsidiary's business, upon fair and reasonable terms that are no more favorable to such Affiliate than would be obtained in an arm's length transaction. As used herein, "Affiliate" means, with respect to a Loan Party or any Subsidiary of a Loan Party, (a) each person that, directly or indirectly, owns or controls 5% or more of the stock or membership interests having ordinary voting power in the election of directors or managers of such Loan Party or such Subsidiary, and (b) each person that controls, is controlled by or is under common control with such Loan Party or such Subsidiary.

7.9. **Compliance.** No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, (a) fail to comply with the laws and regulations described in clauses (b) or (c) of Section 5.8 herein, (b) use any portion of the Term Loans to purchase or carry margin stock (within the meaning of Regulation U of the Federal Reserve Board) or (c) fail to comply in any material respect with, or violate in any material respect any other law or regulation applicable to it.

7.10. **Deposit Accounts and Securities Accounts.** No Loan Party shall directly or indirectly maintain or establish any deposit account or securities account (other than the Royalty Deposit Accounts, but subject to the last sentence of this Section 7.10, and other than any deposit accounts used exclusively for payroll or withholding tax purposes), unless Agent, the applicable Loan Party or Loan Parties and the depository institution or securities intermediary at which the account is or will be maintained enter into a deposit account control agreement or securities account control agreement, as the case may be, in form and substance satisfactory to Agent (an "Account Control Agreement") (which agreement shall provide, among other things, that (i) such depository institution or securities intermediary has no rights of setoff or recoupment or any other claim against such deposit or securities account (except as agreed to by Agent), other than for payment of its service fees and other charges directly related to the administration of such account and for returned checks or other items of payment, and (ii) such depository institution or securities intermediary shall comply with all instructions of Agent without further consent of such Loan Party or Loan Parties, as applicable, including, without limitation, an instruction by Agent to comply exclusively with instructions of the Agent with respect to such account (such notice, a "Notice of Exclusive Control")), prior to or concurrently with the establishment of such deposit account or securities account (or in the case of any such deposit account or securities account maintained as of the date hereof, within 30 days after the Closing Date). Agent may only give a Notice of Exclusive Control with respect to any deposit account or securities account at any time at which an Event of Default has occurred and is continuing. Borrower shall create or maintain a dedicated deposit account or accounts to be used exclusively for payroll or withholding tax purposes. The Royalty Deposit Accounts shall be dedicated exclusively to the receipt of royalty payments resulting from the license of the DepoDur and DepoCyt products. Borrower will not permit any funds to remain on deposit in any Royalty Deposit Account except to the extent required pursuant to the Royalty Lockbox Agreement. If at any time (x) the Royalty Agreements are terminated or (y) the Royalty Agreements are amended to permit Agent to obtain control of the Royalty Deposit Accounts, then the Borrower shall immediately cause such Royalty Deposit Accounts to become subject to an Account Control Agreement.

7.11. **Amendments to Other Agreements.** No Loan Party shall amend, modify or waive any provision of (a) any Royalty Agreement to modify (i) the scope of the Royalty Collateral or (ii) Section 5.11(c)(iv) of the Royalty Assignment Agreement, (b) any of such Loan Party's organizational documents, unless the net effect of such amendment, modification or waiver is not adverse in any material respect to any Loan Party, Agent or Lenders (it being agreed for the avoidance of doubt that any amendment or modification to the organizational documents of the Parent to permit the issuance of equity on terms and conditions that are not prohibited under this Agreement shall not be considered adverse to any Loan Party, Agent or Lenders), or (c) any document relating to any of the Subordinated Indebtedness, in each case, without the prior written consent of Agent.

8. DEFAULT AND REMEDIES.

8.1. **Events of Default.** Loan Parties shall be in default under this Agreement and each of the other Debt Documents if (each of the following, an " Event of Default"):

(a) Borrower shall fail to pay (i) any principal when due, or (ii) any interest, fees or other Obligations (other than as specified in clause (i)) within a period of 3 days after the due date thereof (other than on any Applicable Term Loan Maturity Date);

(b) any Loan Party breaches any of its obligations under Section 6.1 (solely as it relates to maintaining its existence), Section 6.2, Section 6.3, Section 6.4, or Article 7;

(c) any Loan Party breaches any of its other obligations under any of the Debt Documents and fails to cure such breach within 30 days after the earlier of (i) the date on which an officer of such Loan Party becomes aware, or through the exercise of reasonable diligence should have become aware, of such failure and (ii) the date on which notice shall have been given to such Loan Party from Agent;

(d) any warranty, representation or statement made or deemed made by or on behalf of any Loan Party in any of the Debt Documents or otherwise in connection with any of the Obligations shall be false or misleading in any material respect, or any warranty, representation or statement made or deemed made by or on behalf of any VC Guarantor in the VC Guaranty shall be false or misleading in any material respect;

(e) any of the Collateral with a value, individually or in the aggregate, in excess of $250,000 is subjected to attachment, execution, levy, seizure or confiscation in any legal proceeding or otherwise, or if any legal or administrative proceeding is commenced against any Loan Party or any of the Collateral, which in the good faith judgment of Agent subjects any of the Collateral to a material risk of attachment, execution, levy, seizure or confiscation, and such attachment, execution, levy, seizure or confiscation is not removed, discharged or rescinded, or no bond is posted or protective order obtained to negate such risk, in each case within 20 days of the same;

(f) one or more judgments, orders or decrees shall be rendered against any Loan Party or any Subsidiary of a Loan Party that exceeds by more than $500,000 any insurance coverage applicable thereto (to the extent the relevant insurer has been notified of such claim and has not denied coverage therefor) and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order or decree or (ii) such judgment, order or decree shall not have been vacated or discharged for a period of 10 consecutive days and there shall not be in effect (by reason of a pending appeal or otherwise) any stay of enforcement thereof;

(g) (i) any Loan Party, any Subsidiary of a Loan Party or any VC Guarantor shall generally not pay its debts as such debts become due, shall admit in writing its inability to pay its debts generally, shall make a general assignment for the benefit of creditors, or shall cease doing business as a going concern, (ii) any proceeding shall be instituted by or against any Loan Party, any Subsidiary of a Loan Party or any VC Guarantor seeking to adjudicate it a bankrupt or insolvent or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, composition of it or its debts or any similar order, in each case under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking the entry of an order for relief or the appointment of a custodian, receiver, trustee, conservator, liquidating agent, liquidator, other similar official or other official with similar powers, in each case for it or for any

substantial part of its property and, in the case of any such proceedings instituted against (but not by or with the consent of) such Loan Party, such Subsidiary or such VC Guarantor, either such proceedings shall remain undismissed or unstayed for a period of 45 days or more or any action sought in such proceedings shall occur or (iii) any Loan Party, any Subsidiary of a Loan Party or any VC Guarantor shall take any corporate or similar action or any other action to authorize any action described in clause (i) or (ii) above;

(h) a Material Adverse Effect has occurred;

(i) any VC Guarantor breaches any of its obligations under the VC Guaranty;

(j) (i) any provision of any Debt Document shall fail to be valid and binding on, or enforceable against, a Loan Party or VC Guarantor party thereto, or (ii) any Debt Document purporting to grant a security interest to secure any Obligation shall fail to create a valid and enforceable security interest on any Collateral purported to be covered thereby or such security interest shall fail or cease to be a perfected lien with the priority required in the relevant Debt Document or (iii) any subordination provision set forth in the Specified Equityholder Subordination Agreement, the Other Subordination Agreement or any other document evidencing or relating to the Subordinated Indebtedness shall, in whole or in part, terminate or otherwise fail or cease to be valid and binding on, or enforceable against, any agent for or holder of the Subordinated Indebtedness (or such person shall so state in writing), or any Loan Party shall state in writing that any of the events described in clause (i), (ii) or (iii) above shall have occurred;

(k) (i) any Loan Party or any Subsidiary of a Loan Party defaults under any agreement related to or evidencing the Subordinated Indebtedness or any other Material Agreement (after any applicable grace period contained therein), (ii) (A) any Loan Party or any Subsidiary of a Loan Party fails to make (after any applicable grace period) any payment when due (whether due because of scheduled maturity, required prepayment provisions, acceleration, demand or otherwise) on any Indebtedness (other than the Obligations) of such Loan Party or such Subsidiary having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $500,000 ("Material Indebtedness"), (B) any other event shall occur or condition shall exist under any contractual obligation relating to any such Material Indebtedness, if the effect of such event or condition is to accelerate, or to permit the acceleration of (without regard to any subordination terms with respect thereto), the maturity of such Material Indebtedness or (C) any such Material Indebtedness shall become or be declared to be due and payable, or be required to be prepaid, redeemed, defeased or repurchased (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof, or (iii) Borrower or any Subsidiary defaults (beyond any applicable grace period) under any obligation for payments due or otherwise under any lease agreement that meets the criteria for the requirement of an Access Agreement under Section 6.6;

(l) A "Purchase Option Event" (as such term is defined in the Royalty Assignment Agreement) shall have occurred and the Trust shall have commenced the exercise of the purchase option pursuant to Section 5.07 of the Royalty Assignment Agreement (or the Trust shall have given written notice to any Loan Party of its intention to exercise such purchase option), or any "Event of Default" (as such term is defined in the Royalty Security Agreement) shall have occurred and the Trust shall have commenced the exercise of remedies under the Royalty Security Agreement (or the Trust shall have given written notice to any Loan Party of its intention to exercise such remedies); or

(m) (i) either the chief executive officer or the chief financial officer of Borrower as of the date hereof shall cease to be involved in the day to day operations (including research development) or management of the business of Borrower, and a successor of such officer reasonably acceptable to Agent is not appointed on terms reasonably acceptable to Agent within 180 days of such cessation or involvement, (ii) the Specified Equityholders (or any fund or company controlled by any of them) shall cease to own and control all of the economic and voting rights associated with ownership of at least fifty-one percent (51%) of the outstanding capital stock of all classes of the Parent on a fully-diluted basis, (iii) Parent ceases to directly own and control all of the economic and voting rights associated with the outstanding voting capital stock (or other voting equity interest) of Borrower, or (iv) Borrower ceases to own and control, directly or indirectly, all of the economic and voting rights associated with the outstanding voting capital stock (or other voting equity interest) of each of its Subsidiaries.

8.2. **Lender Remedies.** Upon the occurrence and during the continuance of any Event of Default, Agent may, and at the written request of the Requisite Lenders shall, terminate the Commitments with respect to further Term Loans and declare any or all of the Obligations to be immediately due and payable, without demand or notice to any Loan Party and the accelerated Obligations shall bear interest at the Default Rate pursuant to Section 2.6, provided that, upon the occurrence of any Event of Default specified in Section 8.1(g) above, the Obligations shall be automatically accelerated. After the occurrence of an Event of Default, Agent shall have (on behalf of itself and Lenders) all of the rights and remedies of a secured party under the UCC, and under any other applicable law. Without limiting the foregoing, Agent shall have the right to, and at the written request of the Requisite Lenders shall, (a) notify any account debtor of any Loan Party or any obligor on any instrument which constitutes part of the Collateral to make payments to Agent (for the benefit of itself and Lenders), (b) with or without legal process, enter any premises where the Collateral may be and take possession of and remove the Collateral from the premises or store it on the premises, (c) sell the Collateral at public or private sale, in whole or in part, and have the right to bid and purchase at such sale, or (d) lease or otherwise dispose of all or part of the Collateral, applying proceeds from such disposition to the Obligations in accordance with Section 8.4. If requested by Agent, Loan Parties shall promptly assemble the Collateral and make it available to Agent at a place to be designated by Agent. Agent may also render any or all of the Collateral unusable at a Loan Party's premises and may dispose of such Collateral on such premises without liability for rent or costs. Any notice that Agent is required to give to a Loan Party under the UCC of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall be deemed to constitute reasonable notice if such notice is given in accordance with this Agreement at least 5 days prior to such action. Effective only upon the occurrence and during the continuance of an Event of Default, each Loan Party hereby irrevocably appoints Agent (and any of Agent's designated officers or employees) as such Loan Party's true and lawful attorney to: (i) take any of the actions specified above in this paragraph; (ii) endorse such Loan Party's name on any checks or other forms of payment or security that may come into Agent's possession; (iii) settle and adjust disputes and claims respecting the accounts directly with account debtors, for amounts and upon terms which Agent determines to be reasonable; and (iv) do such other and further acts and deeds in the name of such Loan Party that Agent may deem necessary or desirable to enforce its rights in or to any of the Collateral or to perfect or better perfect Agent's security interest (on behalf of itself and Lenders) in any of the Collateral. The appointment of Agent as each Loan Party's attorney in fact is a power coupled with an interest and is irrevocable until the Termination Date.

8.3. **Additional Remedies.** In addition to the remedies provided in Section 8.2 above, each Loan Party hereby grants to Agent (on behalf of itself and Lenders) and any transferee of Collateral, for purposes of exercising its remedies as provided herein, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to any Loan Party) to use, license or sublicense any Intellectual Property now owned or hereafter acquired by such Loan Party, and wherever the same may be

located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof. Notwithstanding anything to the contrary in this Section 8.3, in no event shall Agent or Lenders have the right to license, sublicense or otherwise transfer any patents, trademarks or trade secrets of Borrower unless and until an Event of Default shall have occurred and be continuing.

8.4. **Application of Proceeds.** Proceeds from any Transfer of the Collateral, including, without limitation, the Intellectual Property (other than Permitted Dispositions), and all payments made to or proceeds of Collateral received by Agent during the continuance of an Event of Default may be applied to the Obligations in Agent's sole and absolute discretion. Borrower shall remain fully liable for any deficiency.

9. THE AGENT.

9.1. **Appointment of Agent.**

(a) Each Lender hereby appoints GECC (together with any successor Agent pursuant to Section 9.9) as Agent under the Debt Documents and authorizes the Agent to (a) execute and deliver the Debt Documents and accept delivery thereof on its behalf from Loan Parties, (b) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to the Agent under such Debt Documents and (c) exercise such powers as are reasonably incidental thereto. The provisions of this Article 9 are solely for the benefit of Agent and Lenders and none of Loan Parties nor any other person shall have any rights as a third party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement and the other Debt Documents, Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Loan Party or any other person. Agent shall have no duties or responsibilities except for those expressly set forth in this Agreement and the other Debt Documents. The duties of Agent shall be mechanical and administrative in nature and Agent shall not have, or be deemed to have, by reason of this Agreement, any other Debt Document or otherwise a fiduciary or trustee relationship in respect of any Lender. Except as expressly set forth in this Agreement and the other Debt Documents, Agent shall not have any duty to disclose, and shall not be liable for failure to disclose, any information relating to Borrower or any of its Subsidiaries that is communicated to or obtained by GECC or any of its affiliates in any capacity.

(b) Without limiting the generality of clause (a) above, Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Debt Documents (including in any other bankruptcy, insolvency or similar proceeding), and each person making any payment in connection with any Debt Document to any Lender is hereby authorized to make such payment to Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of Agent and Lenders with respect to any Obligation in any proceeding described in any bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Lender), (iii) act as collateral agent for Agent and each Lender for purposes of the perfection of all liens created by the Debt Documents and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the liens created or purported to be created by the Debt Documents, (vi) except as may be otherwise specified in any Debt Document, exercise all remedies given to Agent and the other Lenders with respect to the Collateral, whether under the Debt Documents, applicable law or otherwise and (vii) execute any amendment, consent or waiver under the Debt

Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all liens with respect to the Collateral, including any deposit account maintained by a Loan Party with, and cash and cash equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such liens or otherwise to transfer the Collateral subject thereto to Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed. Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Debt Document by or through any trustee, co-agent, employee, attorney-in-fact and any other person (including any Lender). Any such person shall benefit from this Article 9 to the extent provided by Agent.

(c) If Agent shall request instructions from Requisite Lenders or all affected Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Debt Document, then Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from Requisite Lenders or all affected Lenders, as the case may be, and Agent shall not incur liability to any person by reason of so refraining. Agent shall be fully justified in failing or refusing to take any action hereunder or under any other Debt Document (a) if such action would, in the opinion of Agent, be contrary to law or any Debt Document, (b) if such action would, in the opinion of Agent, expose Agent to any potential liability under any law, statute or regulation or (c) if Agent shall not first be indemnified to its satisfaction against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting hereunder or under any other Debt Document in accordance with the instructions of Requisite Lenders or all affected Lenders, as applicable.

9.2. **Agent's Reliance, Etc.** Neither Agent nor any of its affiliates nor any of their respective directors, officers, agents, employees or representatives shall be liable for any action taken or omitted to be taken by it or them hereunder or under any other Debt Documents, or in connection herewith or therewith, except for damages caused by its or their own gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. Without limiting the generality of the foregoing, Agent: (a) may treat the payee of any Note as the holder thereof until such Note has been assigned in accordance with Section 10.1; (b) may consult with legal counsel, independent public accountants and other experts, whether or not selected by it, and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts; (c) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Requisite Lenders, (d) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made in or in connection with this Agreement or the other Debt Documents; (e) shall not have any duty to inspect the Collateral (including the books and records) or to ascertain or to inquire as to the performance or observance of any provision of any Debt Document, whether any condition set forth in any Debt Document is satisfied or waived, as to the financial condition of any Loan Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from Borrower or any Lender describing such Default or Event of Default clearly labeled "notice of default"; (f) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any lien created or purported to be created under or in connection with, any Debt Document or any other instrument or

document furnished pursuant hereto or thereto; and (g) shall incur no liability under or in respect of this Agreement or the other Debt Documents by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopy, telegram, cable or telex) believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties.

9.3. **GECC and Affiliates.** GECC shall have the same rights and powers under this Agreement and the other Debt Documents as any other Lender and may exercise the same as though it were not Agent; and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated, include GECC in its individual capacity. GECC and its affiliates may lend money to, invest in, and generally engage in any kind of business with, Borrower, any of Borrower's Subsidiaries, any of their Affiliates and any person who may do business with or own securities of Borrower, any of Borrower's Subsidiaries or any such Affiliate, all as if GECC were not Agent and without any duty to account therefor to Lenders. GECC and its affiliates may accept fees and other consideration from Borrower for services in connection with this Agreement or otherwise without having to account for the same to Lenders. Each Lender acknowledges the potential conflict of interest between GECC as a Lender holding disproportionate interests in the Term Loans and GECC as Agent, and expressly consents to, and waives, any claim based upon, such conflict of interest.

9.4. **Lender Credit Decision.** Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and based on the financial statements referred to in Section 6.3 and such other documents and information as it has deemed appropriate, made its own credit and financial analysis of each Loan Party and its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement. Each Lender acknowledges the potential conflict of interest of each other Lender as a result of Lenders holding disproportionate interests in the Term Loans, and expressly consents to, and waives, any claim based upon, such conflict of interest.

9.5. **Indemnification.** Lenders shall and do hereby indemnify Agent (to the extent not reimbursed by Loan Parties and without limiting the obligations of Loan Parties hereunder), ratably according to their respective Pro Rata Shares from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any other Debt Document or any action taken or omitted to be taken by Agent in connection therewith; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. Without limiting the foregoing, each Lender agrees to reimburse Agent promptly upon demand for its Pro Rata Share of any out-of-pocket expenses (including reasonable counsel fees) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and each other Debt Document, to the extent that Agent is not reimbursed for such expenses by Loan Parties. The provisions of this Section 9.5 shall survive the termination of this Agreement.

9.6. **Successor Agent.** Agent may resign at any time by delivering notice of such resignation to the Lenders and the Borrower, effective on the date set forth in such notice. Upon any such resignation, the Requisite Lenders shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within 30 days after the resigning Agent's giving notice of resignation, then the resigning Agent may, on behalf of Lenders, appoint a successor Agent, which shall be a Lender, if a Lender is willing to accept such

appointment, or otherwise shall be a commercial bank or financial institution or a subsidiary of a commercial bank or financial institution if such commercial bank or financial institution is organized under the laws of the United States of America or of any State thereof and has a combined capital and surplus of at least $300,000,000. If no successor Agent has been appointed pursuant to the foregoing, within 30 days after the date such notice of resignation was given by the resigning Agent, the Requisite Lenders shall thereafter perform all the duties of Agent hereunder until such time, if any, as the Requisite Lenders appoint a successor Agent as provided above. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning Agent. Upon the earlier of the acceptance of any appointment as Agent hereunder by a successor Agent or the effective date of the resigning Agent's resignation, the resigning Agent shall be discharged from its duties and obligations under this Agreement and the other Debt Documents, except that any indemnity rights or other rights in favor of such resigning Agent shall continue. After any resigning Agent's resignation hereunder, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was acting as Agent under this Agreement and the other Debt Documents.

9.7. **Setoff and Sharing of Payments.** In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default and subject to Section 9.8(e), each Lender is hereby authorized at any time or from time to time upon the direction of Agent, without notice to Borrower or any other person, any such notice being hereby expressly waived, to offset and to appropriate and to apply any and all balances held by it at any of its offices for the account of Borrower (regardless of whether such balances are then due to Borrower) and any other properties or assets at any time held or owing by that Lender or that holder to or for the credit or for the account of Borrower against and on account of any of the Obligations that are not paid when due. Any Lender exercising a right of setoff or otherwise receiving any payment on account of the Obligations in excess of its Pro Rata Share thereof shall purchase for cash (and the other Lenders or holders shall sell) such participations in each such other Lender's or holder's Pro Rata Share of the Obligations as would be necessary to cause such Lender to share the amount so offset or otherwise received with each other Lender or holder in accordance with their respective Pro Rata Shares of the Obligations. Borrower agrees, to the fullest extent permitted by law, that (a) any Lender may exercise its right to offset with respect to amounts in excess of its Pro Rata Share of the Obligations and may sell participations in such amounts so offset to other Lenders and holders and (b) any Lender so purchasing a participation in the Term Loans made or other Obligations held by other Lenders or holders may exercise all rights of offset, bankers' lien, counterclaim or similar rights with respect to such participation as fully as if such Lender or holder were a direct holder of the Term Loans and the other Obligations in the amount of such participation. Notwithstanding the foregoing, if all or any portion of the offset amount or payment otherwise received is thereafter recovered from the Lender that has exercised the right of offset, the purchase of participations by that Lender shall be rescinded and the purchase price restored without interest. The term " Pro Rata Share" means, with respect to any Lender at any time, the percentage obtained by dividing (x) the Commitment of such Lender then in effect (or, if such Commitment is terminated, the aggregate outstanding principal amount of the Term Loans owing to such Lender) by (y) the Total Commitment then in effect (or, if the Total Commitment is terminated, the outstanding principal amount of the Term Loans owing to all Lenders).

9.8. **Advances; Payments; Non-Funding Lenders; Information; Actions in Concert.**

(a) Advances; Payments. If Agent receives any payment for the account of Lenders on or prior to 11:00 a.m. (New York time) on any Business Day, Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on such Business Day. If Agent receives any payment for the account of Lenders after 11:00 a.m. (New York time) on any Business Day, Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on the

next Business Day. To the extent that any Lender has failed to fund any such payments and Term Loans (a "Non-Funding Lender"), Agent shall be entitled to set off the funding short-fall against that Non-Funding Lender's Pro Rata Share of all payments received from Borrower.

(b) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Loan Party and such related payment is not received by Agent, then Agent will be entitled to recover such amount (including interest accruing on such amount at the Federal Funds Rate for the first Business Day and thereafter, at the rate otherwise applicable to such Obligation) from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to a Loan Party or paid to any other person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Debt Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to a Loan Party or such other person, without setoff, counterclaim or deduction of any kind.

(c) Non-Funding Lenders. The failure of any Non-Funding Lender to make any Term Loan or any payment required by it hereunder shall not relieve any other Lender (each such other Lender, an "Other Lender") of its obligations to make such Term Loan, but neither any Other Lender nor Agent shall be responsible for the failure of any Non-Funding Lender to make a Term Loan or make any other payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Non-Funding Lender shall not have any voting or consent rights under or with respect to any Debt Document or constitute a "Lender" (or be included in the calculation of "Requisite Lender" hereunder) for any voting or consent rights under or with respect to any Debt Document. At Borrower's request, Agent or a person reasonably acceptable to Agent shall have the right with Agent's consent and in Agent's sole discretion (but shall have no obligation) to purchase from any Non-Funding Lender, and each Non-Funding Lender agrees that it shall, at Agent's request, sell and assign to Agent or such person, all of the Commitments and all of the outstanding Term Loans of that Non-Funding Lender for an amount equal to the principal balance of all Term Loans held by such Non-Funding Lender and all accrued interest and fees with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment Agreement (as defined below).

(d) Dissemination of Information. Agent shall use reasonable efforts to provide Lenders with any notice of Default or Event of Default received by Agent from, or delivered by Agent to Borrower, with notice of any Event of Default of which Agent has actually become aware and with notice of any action taken by Agent following any Event of Default; provided that Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Agent's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. Lenders acknowledge that Borrower is required to provide financial statements to Lenders in accordance with Section 6.3 hereto and agree that Agent shall have no duty to provide the same to Lenders.

(e) Actions in Concert. Anything in this Agreement to the contrary notwithstanding, each Lender hereby agrees with each other Lender that no Lender shall take any action to protect or enforce its rights arising out of this Agreement, the Notes or any other Debt Documents (including exercising any rights of setoff) without first obtaining the prior written consent of Agent and Requisite Lenders, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Notes shall be taken in concert and at the direction or with the consent of Agent and Requisite Lenders.

10. MISCELLANEOUS.

10.1. **Assignment.** Subject to the terms of this Section 10.1, any Lender may make an assignment to an assignee of, or sell participations in, at any time or times, the Debt Documents, its Commitment, Term Loans or any portion thereof or interest therein, including any Lender's rights, title, interests, remedies, powers or duties thereunder. Any assignment by a Lender shall: (i) except in the case of an assignment to a Qualified Assignee (as defined below), require the consent of each Lender (which consent shall not be unreasonably withheld, conditioned or delayed), (ii) require the execution of an assignment agreement in form and substance reasonably satisfactory to, and acknowledged by, Agent (an " Assignment Agreement"); (iii) be conditioned on such assignee Lender representing to the assigning Lender and Agent that it is purchasing the applicable Commitment and/or Term Loans to be assigned to it for its own account, for investment purposes and not with a view to the distribution thereof; (iv) be in an aggregate amount of not less than $1,000,000, unless such assignment is made to an existing Lender or an affiliate of an existing Lender or is of the assignor's (together with its affiliates') entire interest of the Term Loans or is made with the prior written consent of Agent; and (v) include a payment to Agent of an assignment fee of $3,500 (unless otherwise agreed by Agent). In the case of an assignment by a Lender under this Section 10.1, the assignee shall have, to the extent of such assignment, the same rights, benefits and obligations as all other Lenders hereunder. The assigning Lender shall be relieved of its obligations hereunder with respect to its Commitment and Term Loans, as applicable, or assigned portion thereof from and after the date of such assignment. Borrower hereby acknowledges and agrees that any assignment shall give rise to a direct obligation of Borrower to the assignee and that the assignee shall be considered to be a "Lender". In the event any Lender assigns or otherwise transfers all or any part of the Commitments and Obligations, upon the assignee's or the assignor's request, Agent shall request that Borrower execute new Notes in exchange for the Notes, if any, being assigned. Agent may amend Schedule A to this Agreement to reflect assignments made in accordance with this Section.

As used herein, "Qualified Assignee" means (a) any Lender and any affiliate of any Lender and (b) any commercial bank, savings and loan association or savings bank or any other entity which is an "accredited investor" (as defined in Regulation D under the Securities Act) which extends credit or buys loans as one of its businesses, including insurance companies, mutual funds, lease financing companies and commercial finance companies, in each case, which has a rating of BBB or higher from S&P and a rating of Baa2 or higher from Moody's at the date that it becomes a Lender and in each case of clauses (a) and (b), which, through its applicable lending office, is capable of lending to Borrower without the imposition of any withholding or similar taxes; provided that no person proposed to become a Lender after the Closing Date and determined by Agent to be acting in the capacity of a vulture fund or distressed debt purchaser shall be a Qualified Assignee, and no person or Affiliate of such person proposed to become a Lender after the Closing Date and that holds any subordinated debt or stock issued by any Loan Party or its Affiliates shall be a Qualified Assignee.

10.2. **Notices.** All notices, requests or other communications given in connection with this Agreement shall be in writing, shall be addressed to the parties at their respective addresses set forth on the signature pages hereto below such parties' name or in the most recent Assignment Agreement executed by any Lender (unless and until a different address may be specified in a written notice to the

other party delivered in accordance with this Section), and shall be deemed given (a) on the date of receipt if delivered by hand, (b) on the date of sender's receipt of confirmation of proper transmission if sent by facsimile transmission, (c) on the next Business Day after being sent by a nationally-recognized overnight courier, and (d) on the fourth Business Day after being sent by registered or certified mail, postage prepaid. As used herein, the term " Business Day" means and includes any day other than Saturdays, Sundays, or other days on which commercial banks in New York, New York are required or authorized to be closed.

10.3. **Correction of Debt Documents.** Agent may correct patent errors and fill in all blanks in this Agreement or the Debt Documents consistent with the agreement of the parties.

10.4. **Performance.** Time is of the essence of this Agreement. This Agreement shall be binding, jointly and severally, upon all parties described as the "Borrower" and their respective successors and assigns, and shall inure to the benefit of Agent, Lenders, and their respective successors and assigns.

10.5. **Payment of Fees and Expenses.** Loan Parties agree, jointly and severally, to pay or reimburse upon demand for all reasonable fees, costs and expenses incurred by Agent and Lenders in connection with (a) the investigation, preparation, negotiation, execution, administration of, or any amendment, modification, waiver or termination of, this Agreement or any other Debt Document, (b) any legal advice relating to Agent's rights or responsibilities under any Debt Document, (c) the administration of the Loans and the facilities hereunder and any other transaction contemplated hereby or under the Debt Documents and (d) the enforcement, assertion, defense or preservation of Agent's and Lenders' rights and remedies under this Agreement or any other Debt Document, in each case of clauses (a) through (d), including, without limitation, reasonable attorney's fees and expenses, the allocated cost of in-house legal counsel, reasonable fees and expenses of consultants, auditors (including internal auditors) and appraisers and UCC and other corporate search and filing fees and wire transfer fees. Borrower further agrees that such fees, costs and expenses shall constitute Obligations. This provision shall survive the termination of this Agreement.

10.6. **Indemnity.** Each Loan Party shall and does hereby jointly and severally indemnify and defend Agent, Lenders, and their respective successors and assigns, and their respective directors, officers, employees, consultants, attorneys, agents and affiliates (each an " Indemnitee") from and against all liabilities, losses, damages, expenses, penalties, claims, actions and suits (including, without limitation, related reasonable attorneys' fees and the allocated costs of in-house legal counsel) of any kind whatsoever arising, directly or indirectly, which may be imposed on, incurred by or asserted against such Indemnitee as a result of or in connection with this Agreement, the other Debt Documents or any of the transactions contemplated hereby or thereby (the "Indemnified Liabilities"); provided that, no Loan Party shall have any obligation to any Indemnitee with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of such Indemnitee as determined by a final non-appealable judgment of a court of competent jurisdiction. In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings). Each Loan Party waives, releases and agrees (and shall cause each other Loan Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor. This provision shall survive the termination of this Agreement.

10.7. **Rights Cumulative.** Agent's and Lenders' rights and remedies under this Agreement or otherwise arising are cumulative and may be exercised singularly or concurrently. Neither the failure nor any delay on the part of Agent or any Lender to exercise any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or

privilege preclude any other or further exercise of that or any other right, power or privilege. NONE OF AGENT OR ANY LENDER SHALL BE DEEMED TO HAVE WAIVED ANY OF ITS RESPECTIVE RIGHTS UNDER THIS AGREEMENT OR UNDER ANY OTHER AGREEMENT, INSTRUMENT OR PAPER SIGNED BY BORROWER UNLESS SUCH WAIVER IS EXPRESSED IN WRITING AND SIGNED BY AGENT, REQUISITE LENDERS OR ALL LENDERS, AS APPLICABLE. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

10.8. **Entire Agreement; Amendments, Waivers.**

(a) This Agreement and the other Debt Documents constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior understandings (whether written, verbal or implied) with respect to such subject matter. Section headings contained in this Agreement have been included for convenience only, and shall not affect the construction or interpretation of this Agreement.

(b) Except for actions expressly permitted to be taken by Agent, no amendment, modification, termination or waiver of any provision of this Agreement or any other Debt Document, or any consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by Agent, Borrower and Lenders having more than (x) 50% of the aggregate Commitments of all Lenders or (y) if such Commitments have expired or been terminated, 50% of the aggregate outstanding principal amount of the Term Loans (the " Requisite Lenders"). Except as set forth in clause (c) below, all such amendments, modifications, terminations or waivers requiring the consent of any Lenders shall require the written consent of Requisite Lenders.

(c) No amendment, modification, termination or waiver of any provision of this Agreement or any other Debt Document shall, unless in writing and signed by Agent and each Lender directly affected thereby: (i) increase or decrease any Commitment of any Lender or increase or decrease the Total Commitment (which shall be deemed to affect all Lenders), (ii) reduce the principal of or rate of interest on any Obligation or the amount of any fees payable hereunder (other than waiving the imposition of the Default Rate), (iii) postpone the date fixed for or waive any payment of principal of or interest on any Term Loan, or any fees hereunder, (iv) release all or substantially all of the Collateral, except as otherwise expressly permitted in the Debt Documents (which shall be deemed to affect all Lenders), (v) subordinate the lien on all or substantially all of the Collateral granted in favor of the Agent securing the Obligations (which shall be deemed to affect all Lenders), (vi) release a Loan Party from, or consent to a Loan Party's assignment or delegation of, such Loan Party's obligations hereunder and under the other Debt Documents, or any Guarantor from its guaranty of the Obligations or any VC Guarantor from its obligations under the VC Guaranty (which shall be deemed to affect all Lenders) or (vii) amend, modify, terminate or waive Section 8.4, 9.7 or 10.8(b) or (c).

(d) Notwithstanding any provision in this Section 10.8 to the contrary, no amendment, modification, termination or waiver affecting or modifying the rights or obligations of Agent hereunder shall be effective unless signed by Borrower, Agent and Requisite Lenders.

(e) Each Lender hereby consents to the release by Agent of any Lien held by the Agent for the benefit of itself and the Lenders in any or all of the Collateral to secure the Obligations upon (i) the occurrence of any Permitted Disposition pursuant to Section 7.3 and (ii) the termination of the Commitments and the payment and satisfaction in full of the Obligations.

10.9. **Binding Effect.** This Agreement shall continue in full force and effect until the Termination Date; provided, however, that the provisions of this Section and Sections 2.3(e), 9.5, 10.5 and 10.6 and the other indemnities contained in the Debt Documents shall survive the Termination Date. The surrender, upon payment or otherwise, of any Note or any of the other Debt Documents evidencing any of the Obligations shall not affect the right of Agent to retain the Collateral for such other Obligations as may then exist or as it may be reasonably contemplated will exist in the future. This Agreement and the grant of the security interest in the Collateral pursuant to Section 3.1 shall automatically be reinstated if Agent or any Lender is ever required to return or restore the payment of all or any portion of the Obligations (all as though such payment had never been made).

10.10. **Use of Logo.** Each Loan Party authorizes Agent to use its name, logo and/or trademark without notice to or consent by such Loan Party, in connection with certain promotional materials that Agent may disseminate to the public. Agent shall provide a draft of any such promotional materials to Borrower for review and comment prior to the publication thereof. The promotional materials may include, but are not limited to, brochures, video tape, internet website, press releases, advertising in newspaper and/or other periodicals, lucites, and any other materials relating the fact that Agent has a financing relationship with Borrower. Nothing herein obligates Agent to use a Loan Party's name, logo and/or trademark, in any promotional materials of Agent. Loan Parties shall not, and shall not permit any of its respective Affiliates to, issue any press release or other public disclosure (other than any document filed with any governmental authority relating to a public offering of the securities of Borrower) using the name, logo or otherwise referring to General Electric Capital Corporation, GE Healthcare Financial Services, Inc. or of any of their affiliates, the Debt Documents or any transaction contemplated herein or therein without at least two (2) Business Days prior written notice to and the prior written consent of Agent unless, and only to the extent that, Loan Parties or such Affiliate is required to do so under applicable law and then, only after consulting with Agent prior thereto.

10.11. **Waiver of Jury Trial.** EACH OF LOAN PARTIES, AGENT AND LENDERS UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS AMONG LOAN PARTIES, AGENT AND/OR LENDERS RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED AMONG LOAN PARTIES, AGENT AND/OR LENDERS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. THIS WAIVER IS IRREVOCABLE. THIS WAIVER MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING. THE WAIVER ALSO SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

10.12. **Governing Law.** THIS AGREEMENT, THE OTHER DEBT DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, REGARDLESS OF THE LOCATION OF THE COLLATERAL; PROVIDED, HOWEVER, THAT IF THE LAWS OF ANY JURISDICTION OTHER THAN NEW YORK SHALL GOVERN IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS AFFECTING

ENFORCEMENT OF ANY LIENS IN COLLATERAL, SUCH LAWS OF SUCH OTHER JURISDICTIONS SHALL CONTINUE TO APPLY TO THAT EXTENT. IF ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY OTHER DEBT DOCUMENT IS COMMENCED BY AGENT IN THE STATE COURTS OF THE STATE OF NEW YORK IN THE COUNTY OF NEW YORK OR IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, EACH LOAN PARTY HEREBY CONSENTS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH ACTION AND TO THE LAYING OF VENUE IN THE STATE OF NEW YORK. NOTWITHSTANDING THE FOREGOING, THE AGENT AND LENDERS SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST ANY LOAN PARTY (OR ANY PROPERTY) IN THE COURT OF ANY OTHER JURISDICTION THE AGENT OR THE LENDERS DEEM NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS. ANY PROCESS IN ANY SUCH ACTION SHALL BE DULY SERVED IF MAILED BY REGISTERED MAIL, POSTAGE PREPAID, TO LOAN PARTIES AT THEIR ADDRESS DESCRIBED IN SECTION 10.2, OR IF SERVED BY ANY OTHER MEANS PERMITTED BY APPLICABLE LAW.

10.13. **Confidentiality.** Each Lender and Agent agrees to use all reasonable efforts to maintain, in accordance with its customary practices, the confidentiality of information obtained by it pursuant to or in connection with any Debt Document and designated in writing by any Loan Party as confidential, except that such information may be disclosed (a) with the Borrower's consent, (b) to such Lender's or Agent's Related Persons (as defined below), as the case may be, that are advised of the confidential nature of such information and are instructed to keep such information confidential in accordance with the terms hereof, (c) to the extent such information presently is or hereafter becomes (i) publicly available other than as a result of a breach of this Section 10.13 or (ii) available to such Lender or Agent or any of their Related Persons, as the case may be, from a source (other than any Loan Party) not known by them to be subject to disclosure restrictions, (d) to the extent disclosure is required by any applicable law, rule, regulation, court decree, subpoena or other legal, administrative, governmental or regulatory request, order or proceeding or otherwise requested or demanded by any governmental authority, (e) to the extent necessary or customary for inclusion in league table measurements, (f) (i) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (ii) otherwise to the extent consisting of general portfolio information that does not identify Loan Parties, (g) to current or prospective assignees or participants and to their respective Related Persons, in each case to the extent such assignees, participants or Related Persons agree to be bound by provisions substantially similar to the provisions of this Section 10.13 (and such persons or entities may disclose information to their respective Related Persons in accordance with clause (b) above), (h) to any other party hereto, and (i) in connection with the exercise or enforcement of any right or remedy under any Debt Document, in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or disclosures by Loan Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons. In the event of any conflict between the terms of this Section 10.13 and those of any other contractual obligation entered into with any Loan Party (whether or not a Debt Document), the terms of this Section 10.13 shall govern. "Related Persons" means, with respect to any person or entity, each affiliate of such person or entity and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor and other consultants and agents of or to such person or entity or any of its affiliates.

10.14. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic transmission shall be as effective as delivery of a manually executed counterpart hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, each Loan Parry, Agent and Lenders, intending to be legally bound hereby, have duly executed this Agreement in one or more counterparts, each of which shall be deemed to be an original, as of the day and year first aforesaid.

BORROWER:

PACIRA PHARMACEUTICALS INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

GUARANTOR:

PACIRA, INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

Address For Notices For All Loan Parties:

c/o Pacira Pharmaceuticals Inc.
10450 Science Center Drive
San Diego, California 92121
Attention: Sandra Hargis
Phone: 858-625-2424 x. 3130
Facsimile: 858-625-2439

AGENT AND LENDER:

GENERAL ELECTRIC CAPITAL CORPORATION

By: /s/ R. Hanes Whiteley
Name: R. Hanes Whiteley
Title: Duly Authorized Signatory

Address For Notices:

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: Senior Vice President of Risk - Life Science Finance
Phone: (301) 961-1640
Facsimile: (301) 664-9891

With a copy to:

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: General Counsel
Phone: (301) 961-1640
Facsimile: (301) 664-9866

SCHEDULE A
COMMITMENTS

Name of Lender	Commitment of such Lender	Pro Rata Share
General Electric Capital Corporation	$ 11,250,000	100%
TOTAL	$ 11,250,000	100%

SCHEDULE B
DISCLOSURES

Existing Indebtedness

1. Obligations under and in connection with (i) that certain Securities Purchase Agreement, dated January 22, 2009, by and among Pacira, Inc. and the investors party thereto, as amended, and (ii) the related transaction documents

2. Obligations under and in connection with (i) that certain Secured Note Purchase Agreement, dated June 1, 2009, by and among Pacira, Inc. and the investors party thereto, as amended, and (ii) the related transaction documents

3. Obligations under and in connection with (i) that certain Secured Note Purchase Agreement, dated March 10, 2010, by and among Pacira, Inc. and the investors party thereto and (ii) the related transaction documents

4. Obligations under and in connection with (a) that certain Amended and Restated Royalty Interests Assignment Agreement, dated as of March 23, 2007 (the "Royalty Assignment Agreement"), by and between Pacira Pharmaceuticals, Inc. (formerly known as SkyePharma, Inc.), as seller, and Royalty Securitization Trust I (the "Trust"), as purchaser, (b) that certain Amended and Restated Security Agreement, dated as of March 23, 2007 (the "Royalty Security Agreement"), by and between Pacira Pharmaceuticals, Inc. (formerly known as SkyePharma, Inc.) and Trust, and (c) that certain Amended and Restated Lockbox Agreement, dated as of March 23, 2007 (the "Royalty Lockbox Agreement"), by and among Pacira Pharmaceuticals, Inc. (formerly known as SkyePharma, Inc.), Deutsche Bank Trust Pacira, Inc. in its capacity as custodian and JPMorgan Chase Bank, N.A.

5. Obligations under and in connection with certain promissory notes issued to creditors of Pacira, Inc. and/or Pacira Pharmaceuticals, Inc., including, without limitation, those set forth on Exhibit 6 to the Perfection Certificate

6. Obligations under and in connection with (i) that certain Subordinated Secured Note Purchase Agreement, dated as of the closing date of the loan and security agreement with GECC, by and among Pacira, Inc. and Pacira Pharmaceuticals, Inc., and the investors party thereto and (ii) the related transaction documents

7. (To the extent constituting "Indebtedness") Obligations to Silicon Valley from time to time associated with the use by Pacira, Inc.'s and Pacira Pharmaceuticals, Inc.'s employees of certain business credit cards issued by Silicon Valley Bank (the "Credit Card Obligations")

Existing Liens:

Name of Holder of Lien/Encumbrance	Description of Property Encumbered	Entity
Liens in favor of the holder of the obligations described in item 4 in "Existing Indebtedness" above	the Collateral as described in the Royalty Security Agreement (the "Royalty Collateral")	Pacira Pharmaceuticals, Inc.

Liens in favor of the holders of the obligations described in item 2 in "Existing Indebtedness" above	Substantially all of the assets of Pacira, Inc. and Pacira Pharmaceuticals, Inc., except for the Royalty Collateral.	Pacira, Inc. and Pacira Pharmaceuticals, Inc.
Liens in favor of the holders of the obligations described in item 3 in "Existing Indebtedness" above	Substantially all of the assets of Pacira, Inc. and Pacira Pharmaceuticals, Inc., except for the Royalty Collateral.	Pacira, Inc. and Pacira Pharmaceuticals, Inc.
Liens in favor of the holders of the obligations described in item 6 in "Existing Indebtedness" above	Substantially all of the assets of Pacira, Inc. and Pacira Pharmaceuticals, Inc., except for the Royalty Collateral.	Pacira, Inc. and Pacira Pharmaceuticals, Inc.
Lien of Silicon Valley Bank in that certain Certificate of Deposit No. 8800063623 (the "Certificate of Deposit") issued by Silicon Valley Bank to Borrower which secures the Credit Card Obligations	The Certificate of Deposit	Pacira Pharmaceuticals, Inc.

Existing Investments

1. Investments by Pacira, Inc. in Pacira Pharmaceuticals, Inc.

Material Agreements

1. Assignment Agreement, dated February 9, 1994, amended April 15, 2004, by and between Pacira, Inc. and **Research Development Foundation.**
2. Acquisition Agreements dated March 30, 2007, between SkyePharma, Inc. and Pacira, Inc. (Blue Acquisition Corp), including Schedule 1.7 of Disclosure Schedules identifying obligations of Pacira Pharmaceuticals, Inc. to **SkyePharma PLC.**
3. (a) that certain Amended and Restated Royalty Interests Assignment Agreement, dated as of March 23, 2007, as amended by and between Borrower, as seller, and Royalty Securitization Trust I (the "Trust"), as purchaser, (b) that certain Amended and Restated Security Agreement, dated as of March 23, 2007 (as amended), by and between Borrower and Trust, and (c) that certain Amended and Restated Lockbox Agreement, dated as of March 23, 2007 (as amended), by and among Borrower, Deutsche Bank Trust Pacira, Inc. in its capacity as custodian and JPMorgan Chase Bank, N.A.
4. Supply Agreement, dated June 30, 2003, between SkyePharma Inc. and **MundiPharma Medical Pacira, Inc**..
5. Distribution Agreement, dated June 30, 2003, between SkyePharma Inc. and **MundiPharma Medical Pacira, Inc**..
6. Distribution Agreement, dated July 27, 2005, between SkyePharma Inc. and **MundiPharma International Holdings Limited.**

7. Co-development, Collaboration and License Agreement, dated as of January 2, 2003, by and among **Enzon Pharmaceuticals, Inc.**, Jagotec, AG, SkyePharma, Inc. and SkyePharma PLC.
8. Supply and Distribution Agreement, dated as of December 31, 2002, by and between **Enzon Pharmaceuticals, Inc.** and SkyePharma, Inc.
9. Amended and Restated Strategic Licensing, Distribution and Marketing Agreement, dated October 15,2009, by and between Pacira, Inc. and **EKR Therapeutics, Inc.**
10. Amended and Restated Supply Agreement, dated October 15, 2009, by and between Pacira, Inc. and **EKR Therapeutics, Inc.**
11. Strategic Marketing Agreement, dated September 27, 2007, by and between Pacira, Inc. and **Flynn Pharma Limited.**
12. Supply Agreement, December 5, 2007, by and between Pacira, Inc. and **Flynn Pharma Limited.**
13. Development and Marketing Agreement, dated October 31, 2005, by and between Pacira, Inc. and **Maruho Co., LTD**
14. Development and License Agreement, dated March 31, 2008, by and between **Amylin Pharmaceuticals, Inc.** and Pacira, Inc..
15. Lease Agreement, dated August 17, 1993, amended July 2, 2009, by and between Pacira, Inc. and **Health Care Properties, Inc. (HCP).**
16. Lease Agreement, dated December 8, 1994, amended July 2, 2009, by and between Pacira, Inc. and **LASDK**, an affiliate of HCP.
17. Services Agreement, dated June 30, 2009, amended February 26, 2010, by and between Pacira, Inc. and **Almac Pharma Services.**
18. Services Agreement, dated June 30, 2009, by and between Pacira, Inc. and **Almac Pharma Services.**
19. Services Agreement dated September 25, 2009, by and between Pacira, Inc. and **Synteract.**
20. Services Agreement dated December 10, 2007 to August 21, 2008, by and between Pacira, Inc. and **Synteract.**
21. Services Agreement dated March 1, 2009, amended March 5, 2010, by and between Pacira, Inc. and **MPM Capital.**
22. Services Agreement, dated October 11, 2009, amended March 17, 2009, by and between Pacira, Inc. and **Aquilo Partners.**
23. Professional Services Agreement dated June 21, 2007, by and between Pacira, Inc. and **WilmerHale.**
24. Professional Services Agreement dated May 3, 2007, by and between Pacira, Inc. and **Knobbe, Martens, Olsen & Bear.**
25. Insurance through various providers paid through insurance agent **Barney & Barney.**

26. Subordinated Indebtedness:

A. June 1, 2009

Secured Note Purchase Agreement, dated as of June 1, 2009 Amendment No. 1 to Secured Note Purchase Agreement, dated January 29, 2010

Security Agreement, dated as of June 1,2009

Secured Promissory Notes issued pursuant to the foregoing Secured Note Purchase Agreement

B. March 10, 2010

Secured Note Purchase Agreement, dated as of March 10, 2010

Guaranty and Security Agreement, dated as of March 10 2010

Intellectual Property Security Agreement, dated as of March 10, 2010

Secured Promissory Notes issued pursuant to the foregoing Secured Note Purchase Agreement

C. January 22, 2009

Securities Purchase Agreement, dated as of January 22, 2009 Amendment No. 1 to Securities Purchase Agreement, dated December 31, 2009

Convertible Promissory Notes issued pursuant to the foregoing Securities Purchase Agreement

D. April 30, 2010 - HBM Documents

Subordinated Secured Note Purchase Agreement, dated as of April 30, 2010

Subordinated Guaranty and Security Agreement, dated as of April 30, 2010

Subordinated Intellectual Property Security Agreement, dated as of April 30, 2010

Subordinated Secured Promissory Note, dated April 30, 2010, in the aggregate principal amount of $1,875,000.00 issued to HBM Bio Ventures (Cayman) Ltd., and other Subordinated Secured Promissory Notes subsequently issued pursuant to such Subordinated Secured Note Purchase Agreement

EXHIBIT A

FORM OF PROMISSORY NOTE

April 30, 2010

FOR VALUE RECEIVED, PACIRA PHARMACEUTICALS, INC., a California corporation located at the address stated below (" Borrower"), promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION or any subsequent holder hereof (each, a "Lender"), the principal sum of Eleven Million Two Hundred Fifty Thousand and No/100 Dollars ($11,250,000) or, if less, the aggregate unpaid principal amount of all Term Loans made by Lender to or on behalf of Borrower pursuant to the Agreement (as hereinafter defined). All capitalized terms, unless otherwise defined herein, shall have the respective meanings assigned to such terms in the Agreement.

This Promissory Note is issued pursuant to that certain Loan and Security Agreement, dated as of April 30, 2010, among Borrower, the guarantors from time to time party thereto, General Electric Capital Corporation, as agent, and Lender (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), is one of the Notes referred to therein, and is entitled to the benefit and security of the Debt Documents referred to therein, to which Agreement reference is hereby made for a statement of all of the terms and conditions under which the loans evidenced hereby were made.

The principal amount of the indebtedness evidenced hereby shall be payable in the amounts and on the dates specified in the Agreement. Interest thereon shall be paid until such principal amount is paid in full at such interest rates and at such times as are specified in the Agreement. The terms of the Agreement are hereby incorporated herein by reference.

All payments shall be applied in accordance with the Agreement. The acceptance by Lender of any payment which is less than payment in full of all amounts due and owing at such time shall not constitute a waiver of Lender's right to receive payment in full at such time or at any prior or subsequent time.

AH amounts due hereunder and under the other Debt Documents are payable in the lawful currency of the United States of America. Borrower hereby expressly authorizes Lender to insert the date value as is actually given in the blank space on the face hereof and on all related documents pertaining hereto.

This Note is secured as provided in the Agreement and the other Debt Documents. Reference is hereby made to the Agreement and the other Debt Documents for a description of the properties and assets in which a security interest has been granted, the nature and extent of the security interest, the terms and conditions upon which the security interest was granted and the rights of the holder of the Note in respect thereof.

Time is of the essence hereof. If Lender does not receive from Borrower payment in full of any Scheduled Payment or any other sum due under this Note or any other Debt Document within 3 days after its due date, Borrower agrees to pay the Late Fee in accordance with the Agreement. Such Late Fee will be immediately due and payable, and is in addition to any other costs, fees and expenses that Borrower may owe as a result of such late payment.

This Note may be voluntarily prepaid only as permitted under Section 2.4 of the Agreement. After an Event of Default, this Note shall bear interest at a rate per annum equal to the Default Rate pursuant to Section 2.6 of the Agreement.

Borrower and all parties now or hereafter liable with respect to this Note, hereby waive presentment, demand for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, and all other notices in connection herewith, as well as filing of suit (if permitted by law) and diligence in collecting this Note or enforcing any of the security hereof, and agree to pay (if permitted by law) all expenses incurred in collection, including reasonable attorneys' fees and expenses, including without limitation, the allocated costs of in-house counsel.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

No variation or modification of this Note, or any waiver of any of its provisions or conditions, shall be valid unless such variation or modification is made in accordance with Section 10.8 of the Agreement. Any such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

IN WITNESS WHEREOF, Borrower has duly executed this Note as of the date first above written.

PACIRA PHARMACEUTICALS, INC.

By: _____

Name: _____

Title: _____

Federal Tax ID #: _____

Address: 10450 Science Center Drive
San Diego, California 92121

EXHIBIT B

SECRETARY'S CERTIFICATE OF AUTHORITY

[DATE]

Reference is made to the Loan and Security Agreement, dated as of April 30, 2010 (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), among [Borrower Name], a [_____] [corporation/limited liability company/limited liability partnership/limited partnership] (the "Borrower"), the guarantors from time to time party thereto, General Electric Capital Corporation, a Delaware corporation (" GECC"), as a lender and as agent (in such capacity, together with its successors and assigns in such capacity, "Agent"), and the other lenders signatory thereto from time to time (GECC and such other lenders, the "Lenders"). Capitalized terms used but not defined herein are used with the meanings assigned to such terms in the Agreement.

I, [_____], do hereby certify that:

(i) I am the duly elected, qualified and acting [Assistant] Secretary of **[INSERT NAME OF LOAN PARTY]** (the "Company");

(ii) attached hereto as Exhibit A is a true, complete and correct copies of the Company's [Certificate/Articles of Incorporation or Articles of Organization/Certificate of Formation] and the [Bylaws/LLC Agreement/Partnership Agreement], each of which is in full force and effect on and as of the date hereof;

(iii) each of the following named individuals is a duly elected or appointed, qualified and acting officer of the Company who holds the offices set opposite such individual's name, and such individual is authorized to sign the Debt Documents to which the Company is a party and all other notices, documents, instruments and certificates to be delivered pursuant thereto, and the signature written opposite the name and title of such officer is such officer's genuine signature:

Name	Title	Signature

(iv) attached hereto as Exhibit B are true, complete and correct copies of resolutions adopted by the Board of Directors/Members of the Company (the " Board") authorizing the execution, delivery and performance of the Debt Documents to which the Company is a party, which resolutions were duly adopted by the Board on [DATE] and all such resolutions are in full force and effect on the date hereof in the form in which adopted without amendment, modification, rescission or revocation; and

(v) the foregoing authority shall remain in full force and effect, and Agent and each Lender shall be entitled to rely upon same, until written notice of the modification, rescission or revocation of same, in whole or in part, has been delivered to Agent and each Lender, but no such modification, rescission or revocation shall, in any event, be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority before said written notice is delivered to Agent and each Lender.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand as of the first date written above

Name: _____

Title: [Assistant] Secretary

The undersigned does hereby certify on behalf of the Company that he/she is the duly elected or appointed, qualified and acting [TITLE] of the Company and that [NAME FROM ABOVE] is the duly elected or appointed, qualified and acting [Assistant] Secretary of the Company, and that the signature set forth immediately above is his/her genuine signature.

Name: _____

Title: _____

EXHIBIT B TO SECRETARY'S CERTIFICATE OF AUTHORITY

FORM OF RESOLUTIONS

BOARD RESOLUTIONS

_____, 200__

WHEREAS, [_____], a _____ ("Borrower") has requested that General Electric Capital Corporation, a Delaware corporation ("GECC"), as agent (in such capacity, the "Agent") and lender, and certain other lenders (GECC and such other lenders, collectively, the " Lenders") provide a credit facility in an original principal amount not to exceed $[_____] (the "Credit Facility"); and

WHEREAS, the terms of the Credit Facility are set forth in a loan and security agreement by and among Borrower, the guarantors from time to time party thereto, Agent, and the Lenders and certain related agreements, documents and instruments described in detail below; and

[WHEREAS, as a subsidiary of Borrower, _____, the "Company") will benefit from the making of the loan(s) to Borrower under the Credit Facility; and]

WHEREAS, the Board of Directors of [**Borrower**] [**Company**] (the "Directors") deems it advisable and in the best interests of [**Borrower**] [**Company**] to execute, deliver and perform its obligations under those transaction documents described and referred to below.

NOW, THEREFORE, be it

RESOLVED, that the Credit Facility be, and it hereby is, approved; and further

RESOLVED, that the form of Loan and Security Agreement (the " Loan and Security Agreement"), by and among [Borrower], [Company,] the [other] guarantors from time to time party thereto, Agent and the Lenders, as presented to the Directors, be and it hereby is, approved and the [President, the Chief Executive Officer, Chief Financial Officer, the Vice President or Treasurer] of [Borrower] [Company] (collectively, the "Proper Officers") be, and each of them hereby is, authorized and directed on behalf of [Borrower] [Company] to execute and deliver to Agent the Loan and Security Agreement, in substantially the form as presented to the Directors, with such changes as the Proper Officers may approve, such approval to be conclusively evidenced by execution and delivery thereof; and further

[**RESOLVED**, that the form of Promissory Note (the "Note"), as presented to the Directors, be, and it hereby is, approved and the Proper Officers be, and each of them hereby is, authorized and directed on behalf of Borrower to execute and deliver to Lender one or more promissory Notes, in substantially the form as presented to the Directors, with such changes as the Proper Officers may approve, such approval to be conclusively evidenced by execution and delivery thereof; and further]

[**RESOLVED**, that the form(s) of [Intellectual Property Security Agreement] [Pledge Agreement] [and] [Account Control Agreement] [(collectively, the "Security Documents")] [Disbursement Letter,] [Guaranty,] [**INCLUDE OTHER DOCUMENTS AS APPROPRIATE**] (together with the Security Documents, the "Ancillary Documents"), each as presented to the Directors, be, and each of them hereby is, approved and the Proper Officers be, and each of them hereby is, authorized and directed on behalf of Borrower to execute and deliver to Agent each of the Ancillary Documents, in substantially the form as presented to the Directors, with such changes as the Proper Officers may approve, such approval to be conclusively evidenced by execution and delivery thereof; and further]

RESOLVED, that the Proper Officers be, and each of them hereby is, authorized and directed to execute and deliver any and all other agreements, certificates, security agreements, financing statements, indemnification agreements, instruments and documents (together with the Loan and Security Agreement, [and] the Notes [, and the Ancillary Documents], the "Debt Documents") and take any and all other further action, in each case, as may be required or which they may deem appropriate, on behalf of [Borrower] [Company], in connection with the Credit Facility and carrying into effect the foregoing resolutions, transactions and matters contemplated thereby; and further

RESOLVED, that [Borrower] [Company] is hereby authorized to perform its obligations under the Debt Documents, [including, without limitation, the borrowing of any advances made under the Credit Facility and] the granting of any security interest in [Borrower's] [Company's] assets contemplated thereby to secure [Borrower's] [Company's] obligations in connection therewith; and further

RESOLVED, that in addition to executing any documents approved in the preceding resolutions, the Secretary or any Assistant Secretary of [Borrower] [Company] may attest to such Debt Documents, the signature thereon or the corporate seal of [Borrower] [Company] thereon; and further

RESOLVED, that any actions taken by the Proper Officers prior to the date of these resolutions in connection with the transactions contemplated by these resolutions are hereby ratified and approved; and further

RESOLVED, that these resolutions shall be valid and binding upon [Borrower] [Company].

EXHIBIT C-1

FORM OF LANDLORD CONSENT

[Landlord]
[Address]
[_____, ____]

Ladies and Gentlemen:

General Electric Capital Corporation (together with its successors and assigns, if any, "Agent") and certain other lenders (the "Lenders") have entered into, or is about to enter into, a Loan and Security Agreement, dated as of April 30, 2010 (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement") with [CUSTOMER NAME] ("Borrower") [and _____("Company")], pursuant to which [Borrower] [Company] has granted, or will grant, to Agent, on behalf of itself and the Lenders, a security interest in certain assets of [Borrower] [Company], including, without limitation, all of [Borrower's] [Company's] cash, cash equivalents, accounts, books and records, goods, inventory, machinery, equipment, furniture and trade fixtures (such as equipment bolted to floors), together with all addition, substitutions, replacements and improvements to, and proceeds, including, insurance proceeds, of the foregoing, but excluding building fixtures (such as plumbing, lighting and HVAC systems (collectively, the "Collateral"). Some or all of the Collateral is, or will be, located at certain premises known as [_____] in the City or Town of [_____, County of _____ and State of _____] ("Premises"), and [Borrower] [Company] occupies the Premises pursuant to a lease, dated as of [DATE], between [Borrower] [Company], as tenant, and you, [NAME], as [owner/landlord/mortgagee/realty manager] (as amended, restated, supplemented or otherwise modified from time to time, the "Lease").

By your signature below, you hereby agree (and we shall rely on your agreement) that: (i) the Lease is in full force and effect and you are not aware of any existing defaults thereunder, (ii) the Collateral is, and shall remain, personal property regardless of the method by which it may be, or become, affixed to the Premises; (iii) you agree to use your best efforts to provide Agent with written notice of any default by [Borrower] [Company] under the Lease resulting in a termination of the Lease ("Default Notice") and Agent shall have the right, but not the obligation to cure such default within 15 days following Agent's receipt of such Default Notice, (iv) your interest in the Collateral and any proceeds thereof (including, without limitation, proceeds of any insurance therefor) shall be, and remain, subject and subordinate to the interests of Agent and you agree not to levy upon any Collateral or to assert any landlord lien, right of distraint or other claim against the Collateral for any reason; (v) Agent, and its employees and agents, shall have the right, from time to time, to enter into the Premises for the purpose of inspecting the Collateral; and (vi) Agent, and its employees and agents, shall have the right, upon any default by [Borrower] [Company] under the Agreement, to enter into the Premises and to remove or otherwise deal with the Collateral, including, without limitation, by way of public auction or private sale (provided that, if Agent conducts a public auction or private sale of the Collateral at the Premises, Agent shall use reasonable efforts to notify Landlord first and to hold such auction or sale in a manner that would not unduly disrupt Landlord's or any other tenant's use of the Premises). Agent agrees to repair or reimburse you for any physical damage actually caused to the Premises by Agent, or its employees or agents, during any such removal or inspection (other than ordinary wear and tear), provided that it is understood by the parties hereto that Agent shall not be liable for any diminution in value of the Premises caused by the removal or absence of the Collateral therefrom. You hereby acknowledge that Agent shall have no obligation to remove or dispose of the Collateral from the Premises and no action by Agent pursuant to this Consent shall be deemed to be an assumption by Agent of any obligation under the Lease and, except as provided in the immediately preceding sentence, Agent shall not have any obligation to you.

You hereby acknowledge and agree that [Borrower's] [Company's] granting of a security interest in the Collateral in favor of Agent, on behalf of itself and the Lenders, shall not constitute a default under the Lease nor permit you to terminate the Lease or re-enter or repossess the Premises or otherwise be the basis for the exercise of any remedy available to you.

This Consent and the agreements contained herein shall be binding upon, and shall inure to the benefit of, any successors and assigns of the parties hereto (including any transferees of the Premises). This Consent shall terminate upon the indefeasible payment of Borrower's indebtedness in full in immediately available funds and the satisfaction in full of Borrower's [and Company's] performance of its obligations under the Agreement and the related documents.

This Consent and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Delivery of an executed signature page of this Consent or any delivery contemplated hereby by facsimile or electronic transmission shall be as effective as delivery of a manually executed counterpart thereof.

We appreciate your cooperation in this matter of mutual interest.

GENERAL ELECTRIC CAPITAL CORPORATION, as Agent

By: _____
Name: _____
Title: _____

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: Senior Vice President of Risk - Life Science Finance
Phone: (301) 961-1640
Facsimile: (301) 664-9891

With a copy to:

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: General Counsel
Phone: (301) 961-1640
Facsimile: (301) 664-9866

AGREED TO AND ACCEPTED BY:

[NAME], as [owner/landlord/mortgagee/realty manager]

By: _____
Name: _____
Title: _____

Address:

AGREED TO AND ACCEPTED BY:

[NAME OF LOAN PARTY]

By: _____
Name: _____
Title: _____

Interest in the Premises (check applicable box)

- ☐ Owner
- ☐ Mortgagee
- ☐ Landlord
- ☐ Realty Manager

Address:

EXHIBIT C-2

FORM OF BAILEE CONSENT

[Letterhead of GE Capital]

_____, 200__

[NAME OF BAILEE].

_____

_____

Dear Sirs:

Re: [Name of the Loan Party] (the "Company")

Please accept this letter as notice that we have entered into or may enter into financing arrangements with the Company under which the Company has granted to us continuing security interests in substantially all personal property and assets of the Company and the proceeds thereof, including, without limitation, certain equipment owned by the Company held by you at the manufacturing facility (the "Premises") owned by you and located at [_____] (the "Personal Property").

Please acknowledge that as a result of such arrangements, you are holding all of the Personal Property solely for our benefit and subject only to the terms of this letter and our instructions; provided, however, that until further written notice from us, you are authorized to use and/or release any and all of the Personal Property in your possession as directed by the Company in the ordinary course of business. The foregoing instructions shall continue in effect until we modify them in writing, which we may unilaterally do without any consent or approval from the Company. Upon receipt of our instructions, you agree that (a) you will release the Personal Property only to us or our designee; (b) you will cooperate with us in our efforts to assemble, sell (whether by public or private sale), take possession of, and remove all of the Personal Property located at the Premises; (c) you will permit the Personal Property to remain on the Premises for forty-five (45) days after your receipt of our instructions or at our option, to have the Personal Property removed from the Premises within a reasonable time, not to exceed forty-five (45) days after your receipt of our instructions; (d) you will not hinder our actions in enforcing our liens on the Personal Property; and (e) after receipt of our instructions, you will abide solely by our instructions with respect to the Personal Property, and not those of the Company.

You hereby waive and release in our favor: (a) any contractual lien, security interest, charge or interest and any other lien which you may be entitled to whether by contract, or arising at law or in equity against any Personal Property; (b) any and all rights granted under any present or future laws to levy or distrain for rent or any other charges which may be due to you against the Personal Property; and (c) any and all other claims, liens, rights of offset, deduction, counterclaim and demands of every kind which you have or may hereafter have against the Personal Property.

You agree that (i) you have not and will not commingle the Personal Property with any other property of a similar kind owned or held by you in any manner such that the Personal Properly is not readily identifiable, (ii) you have not and will not issue any negotiable or non-negotiable documents or instruments relating to the Personal Property, and (iii) the Personal Property is not and will not be deemed to be fixtures.

Notwithstanding the foregoing, all of your charges of any nature whatsoever shall continue to be charged to and paid by the Company and we shall not be liable for such charges.

You hereby authorize us to file at any time such financing statements naming you as the debtor/bailee, Company as the secured party/bailor, and us as the Company's assignee, indicating as the collateral goods of the Company now or hereafter in your custody, control or possession and proceeds thereof, and including any other information with respect to the Company required under the Uniform Commercial Code for the sufficiency of such financing statement or for it to be accepted by the filing office of any applicable jurisdiction (and any amendments or continuations with respect thereto).

The arrangement as outlined herein is to continue without modification, until we have given you written notice to the contrary.

EACH OF THE PARTIES HERETO HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS LETTER.

Any notice(s) required or desired to be given hereunder shall be directed to the party to be notified at the address stated herein.

The terms and conditions contained herein are to be construed and enforced in accordance with the laws of the State of New York.

This terms and conditions contained herein shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

The Company has signed below to indicate its consent to and agreement with the foregoing arrangements, terms and conditions. By your signature below, you hereby agree to be bound by the terms and conditions of this letter.

Very truly yours,

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Name: _____

Title: Duly Authorized Signatory

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: Senior Vice President of Risk - Life Science Finance
Phone: (301) 961-1640
Facsimile: (301) 664-9891

With a copy to:

General Electric Capital Corporation
c/o GE Healthcare Financial Services, Inc.
Two Bethesda Metro Center, Suite 600
Bethesda, Maryland 20814
Attention: General Counsel
Phone: (301) 961-1640
Facsimile: (301) 664-9866

Agreed to:

[NAME OF LOAN PARTY]

By: _____

Name: _____

Title: _____

Address: _____

_____

_____

[NAME OF LOAN PARTY]

By: _____

Name: _____

Title: _____

Address: _____

_____

_____

EXHIBIT D

COMPLIANCE CERTIFICATE

[DATE]

Reference is made to the Loan and Security Agreement, dated as of April 30, 2010 (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), among Pacira Pharmaceuticals, Inc., a [_____] corporation (the "Borrower"), the guarantors from time to time party thereto, General Electric Capital Corporation, a Delaware corporation (" GECC"), in its capacity as agent (in such capacity, together with its successors and assigns, in such capacity, the "Agent") and lender, and the other lenders signatory thereto (GECC and such other lenders, the " Lenders"). Capitalized terms used but not defined herein are used with the meanings assigned to such terms in the Agreement.

I, [_____], do hereby certify in my capacity as an officer of Borrower that:

(i) I am the duly elected, qualified and acting [TITLE] of Borrower;

(ii) attached hereto as Exhibit A are [the monthly financial statements]/[annual audited financial statements]/[quarterly financial statements] as required under Section 6.3 of the Agreement and that such financial statements are prepared in accordance with GAAP and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes;

(iii) with respect to any real property described in Section 6.6 of the Loan Agreement where the Loan Parties have not obtained an Access Agreement, no default or event of default exists under any lease applicable to such real property;

(iv) no Default or Event of Default has occurred under the Agreement which has not been previously disclosed, in writing, to Agent; and

(v) all representations and warranties of the Loan Parties stated in the Debt Documents are true and correct in all material respects (without duplication of any materiality qualifier contained therein) on and as of the date hereof, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) on and as of such earlier date.

IN WITNESS WHEREOF, I have hereunto set my hand as of the first date written above

Name: _____

Title: _____

EXHIBIT E

EPS Setup Form

EXHIBIT E

EPS Setup Form

Submit Via Fax:
ATTN: EPS Facilitator
(203) 205-2193

GE Healthcare Financial Services
Phone: (800) 426-6346
Fax: Fax: (203) 205-2193

1. Sender Information:

Sender Name:
Pacira Pharmaceuticals, Inc.

Sender Phone Number:
(858) 625-2424 x 3130

Instructions To Enroll In EPS Plan:

A. Complete sections 1-7
(signature and all other information is required)

B. Include a copy of a voided check, on which is noted your bank, branch and account number

C. **Please submit via Fax to: (203) 205-2193**

2. Authorization Agreement for Pre-Arranged Payment Plan:

(a) Pacira Pharmaceuticals, Inc. ("Borrower") authorizes General Electric Capital Corporation ("Agent") to initiate debit entries for payment becoming due pursuant to the terms and conditions set forth in the Loan and Security Agreement, dated as of April 30, 2010 (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), among Borrower, the guarantors form time to time party thereto, Agent and the lenders signatory thereto.

(b) Borrower understands that the basic term loan payment and all applicable taxes are solely its responsibility. If payment is not satisfied due to account closure, insufficient funds, or cancellation of any required automated payment services, Borrower agrees to remit payment plus any applicable late charges, as set forth in the Agreement.

(c) It is incumbent upon Borrower to give written notice to Agent of any changes to this authorization or the below referenced bank account information 10 days prior to payment date; Borrower may revoke this authorization by giving 10 days written notice to Agent unless otherwise stipulated in the Agreement.

(d) If a deduction is made in error, Borrower has the right to be paid within five business days by Agent the amount of the erroneous deduction, provided Agent is notified in writing of such error.

(e) Cosigner must also sign if the account is a joint account.

3. **Agent Account Number(s):** (Invoice **Billing ID**, 10-digit number formatted: 1234567-001)

Account:	**Account:**	**Account:**	**Account:**
Account:	**Account:**	**Account:**	**Account:**

4. First Payment Debit Date (mm/dd/yy) **First Payment:**

5. Complete ALL Bank and Borrower Information:

BANK INFO

Name of Bank or Financial Institution: **Bank Account Number:** **ABA Routing Number (9-digit number)**

Address of Bank or Financial Institution: **City:** **State:** **Zip Code:**

BORROWER INFO

Signatures	Company	Contact
Signature of Authorized Signer: Date:	**Company Name:**	**Contact Name:**
Name of Joint Account Holder: (Please Print)	**Company Address:**	**Contact Phone Number:**
Signature of Joint Account Holder: Date:	**City:**	**Contact Fax Number:**
Name of Authorized Signer: (Please Print)	**State:** **Zip Code:**	**Contact email address:**

39. Would you like to have property taxes paid via EPS on above accounts?
Check (X): YES: ☐ **NO:** ☐

40. Would you like to receive a complimentary invoice?
Check (X): YES: ☐ **NO:** ☐

Execution Copy

Exhibit 10.29

PROMISSORY NOTE

April 30, 2010

FOR VALUE RECEIVED, PACIRA PHARMACEUTICALS, INC., a California corporation located at the address stated below ("Borrower"), promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION or any subsequent holder hereof (each, a "Lender"), the principal sum of Eleven Million Two Hundred Fifty Thousand and No/100 Dollars ($11,250,000) or, if less, the aggregate unpaid principal amount of all Term Loans made by Lender to or on behalf of Borrower pursuant to the Agreement (as hereinafter defined). All capitalized terms, unless otherwise defined herein, shall have the respective meanings assigned to such terms in the Agreement.

This Promissory Note is issued pursuant to that certain Loan and Security Agreement, dated as of April 30, 2010, among Borrower, the guarantors from time to time party thereto, General Electric Capital Corporation, as agent, and Lender (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), is one of the Notes referred to therein, and is entitled to the benefit and security of the Debt Documents referred to therein, to which Agreement reference is hereby made for a statement of all of the terms and conditions under which the loans evidenced hereby were made.

The principal amount of the indebtedness evidenced hereby shall be payable in the amounts and on the dates specified in the Agreement. Interest thereon shall be paid until such principal amount is paid in full at such interest rates and at such times as are specified in the Agreement. The terms of the Agreement are hereby incorporated herein by reference.

All payments shall be applied in accordance with the Agreement. The acceptance by Lender of any payment which is less than payment in full of all amounts due and owing at such time shall not constitute a waiver of Lender's right to receive payment in full at such time or at any prior or subsequent time.

All amounts due hereunder and under the other Debt Documents are payable in the lawful currency of the United States of America. Borrower hereby expressly authorizes Lender to insert the date value as is actually given in the blank space on the face hereof and on all related documents pertaining hereto.

This Note is secured as provided in the Agreement and the other Debt Documents. Reference is hereby made to the Agreement and the other Debt Documents for a description of the properties and assets in which a security interest has been granted, the nature and extent of the security interest, the terms and conditions upon which the security interest was granted and the rights of the holder of the Note in respect thereof.

Time is of the essence hereof. If Lender does not receive from Borrower payment in full of any Scheduled Payment or any other sum due under this Note or any other Debt Document within 3 days after its due date, Borrower agrees to pay the Late Fee in accordance with the Agreement. Such Late Fee will be immediately due and payable, and is in addition to any other costs, fees and expenses that Borrower may owe as a result of such late payment.

This Note may be voluntarily prepaid only as permitted under Section 2.4 of the Agreement. After an Event of Default, this Note shall bear interest at a rate per annum equal to the Default Rate pursuant to Section 2.6 of the Agreement.

Borrower and all parties now or hereafter, liable with respect to this Note, hereby waive presentment, demand for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, and all other notices in connection herewith, as well as filing of suit (if permitted by law) and diligence in collecting

this Note or enforcing any of the security hereof, and agree to pay (if permitted by law) all expenses incurred in collection, including reasonable attorneys' fees and expenses, including without limitation, the allocated costs of in-house counsel.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

No variation or modification of this Note, or any waiver of any of its provisions or conditions, shall be valid unless such variation or modification is made in accordance with Section 10.8 of the Agreement. Any such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

[Signature page follows]

IN WITNESS WHEREOF, Borrower has duly executed this Note as of the date first above written.

PACIRA PHARMACEUTICALS, INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer
Federal Tax ID #: 33-0387911
Address: 10450 Science Center Drive
San Diego, California 92121

Execution Copy

Exhibit 10.30

PLEDGE AGREEMENT

This PLEDGE AGREEMENT, dated as of April 30, 2010 (together with all amendments, if any, from time to time hereto, this "Pledge Agreement") by and among PACIRA PHARMACEUTICALS, INC., a California corporation ("Borrower"), PACIRA, INC., a Delaware corporation ("Parent"), and the other entities or persons identified on the signature pages of this Agreement (together with Borrower and Parent, collectively, "Pledgors", and each, a "Pledgor"), and GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation, in its capacity as Agent for the Lenders (together with any successors, endorsees and assigns, "Agent").

W I T N E S S E T H :

WHEREAS, pursuant to that certain Loan and Security Agreement dated as of the date hereof by and among Borrower, the other Loan Parties signatory thereto from time to time, Agent and the Lenders signatory thereto from time to time (including all annexes, exhibits and schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Loan Agreement"), the Lenders have agreed to establish certain financing arrangements for and make loans and extensions of credit to Borrower on the terms and conditions set forth in the Loan Agreement; and

WHEREAS, in order to induce Agent and the Lenders to enter into the Loan Agreement and other Debt Documents and to induce the Lenders to make the Loans as provided for in the Loan Agreement, each Pledgor has agreed to pledge the Pledged Collateral to Agent, on behalf of itself and the Lenders, in accordance herewith.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Unless otherwise defined herein, terms defined in the Loan Agreement are used herein as therein defined, and the following shall have (unless otherwise provided elsewhere in this Pledge Agreement) the following respective meanings (such meanings being equally applicable to both the singular and plural form of the terms defined):

"Bankruptcy Code" means title 11, United States Code, as amended from time to time, and any successor statute thereto.

"Pledged Collateral" has the meaning assigned to such term in Section 2 hereof.

"Pledged Entity" means an issuer of Pledged Shares or Pledged Indebtedness.

"Pledged Indebtedness" means the Indebtedness evidenced by promissory notes and instruments listed on Schedule I hereto.

"Pledged Shares" means those shares listed on Schedule 1.

"Secured Obligations" has the meaning assigned to such term in Section 3 hereof.

"Stock" means all shares, options, warrants, general or limited partnership interests, membership interests, equity interests or similar rights and all rights to acquire the same in any entity.

2. Pledge. Each Pledgor hereby pledges to Agent, on behalf of itself and the Lenders, and grants to Agent, on behalf of itself and the Lenders, a first priority (subject to Permitted Liens) security interest in all of the following of such Pledgor (collectively, the " Pledged Collateral"):

(a) the Pledged Shares and the certificates representing the Pledged Shares, and all dividends, distributions, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares; and

(b) such portion, as determined by Agent as provided in Section 6(d) below, of any additional shares of Stock of a Pledged Entity from time to time acquired by Pledgor in any manner (which shares shall be deemed to be part of the Pledged Shares), and the certificates representing such additional shares, and all dividends, distributions, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Stock; and

(c) the Pledged Indebtedness and the promissory notes or instruments evidencing the Pledged Indebtedness, and all interest, cash, instruments and other property and assets from time to time received, receivable or otherwise distributed in respect of the Pledged Indebtedness; and

(d) all additional Indebtedness arising after the date hereof and owing to Pledgor and evidenced by promissory notes or other instruments, together with such promissory notes and instruments, and all interest, cash, instruments and other property and assets from time to time received, receivable or otherwise distributed in respect of that Pledged Indebtedness; and

(e) provided that for clarity, the foregoing shall exclude any and all Excluded Assets to the extent excluded at any time under the provisions of Section 3.1 of the Loan Agreement.

3. Security for Obligations. This Pledge Agreement secures, and the Pledged Collateral is security for, the prompt payment in full when due, whether at stated maturity, by acceleration or otherwise, and performance of all Obligations of any kind of each Pledgor under or in connection with the Loan Agreement, the Guaranty and the other Debt Documents and all Obligations of each Pledgor now or hereafter existing under this Pledge Agreement including, without limitation, all reasonable fees, costs and expenses whether in connection with collection actions hereunder or otherwise (collectively, the " Secured Obligations").

4. Delivery of Pledged Collateral. All certificates and all promissory notes and instruments evidencing the Pledged Collateral shall be delivered to and held by or on behalf of Agent pursuant hereto. All Pledged Shares shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to Agent and all promissory notes or other

5. Representations and Warranties. Each Pledgor represents and warrants to Agent that:

(a) Such Pledgor is, and at the time of delivery of the Pledged Shares to Agent will be, the sole holder of record and the sole beneficial owner of such Pledged Collateral pledged by such Pledgor free and clear of any lien, security interest or encumbrance (each a " Lien") thereon or affecting the title thereto, except for any Lien created by this Pledge

Agreement and other Permitted Liens; such Pledgor is and at the time of delivery of the Pledged Indebtedness to Agent will be, the sole owner of such Pledged Collateral free and clear of any Lien thereon or affecting title thereto, except for any Lien created by this Pledge Agreement and other Permitted Liens;

(b) All of the Pledged Shares have been duly authorized, validly issued and are fully paid and non-assessable; the Pledged Indebtedness has been duly authorized, authenticated or issued and delivered by, and is the legal, valid and binding obligations of, the Pledged Entities, and no such Pledged Entity is in default thereunder;

(c) Such Pledgor has the right and requisite authority to pledge and grant a security interest in and, subject to applicable law in respect of the transfer of securities, transfer the Pledged Collateral pledged by such Pledgor to Agent, on behalf of itself and the Lenders, as provided herein;

(d) None of the Pledged Shares or Pledged Indebtedness has been issued or transferred in violation of the securities registration, securities disclosure or similar laws of any jurisdiction to which such issuance or transfer may be subject;

(e) All of the Pledged Shares are presently owned by such Pledgor, and are presently represented by the certificates listed on Schedule I hereto. As of the date hereof, there are no existing options, warrants, calls or commitments of any character whatsoever relating to the Pledged Shares;

(f) No consent, approval, authorization or other order or other action by, and no notice to or filing with, any governmental authority or any other person or entity is required (i) for the pledge by such Pledgor of the Pledged Collateral pursuant to this Pledge Agreement or for the execution, delivery or performance of this Pledge Agreement by such Pledgor, or (ii) for the exercise by Agent of the voting or other rights provided for in this Pledge Agreement or the remedies in respect of the Pledged Collateral pursuant to this Pledge Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally or, with respect to any Pledged Shares issued by an issuer organized under the laws of a foreign jurisdiction, except as may be required under the applicable foreign law;

(g) The pledge, assignment and delivery of the Pledged Collateral pursuant to this Pledge Agreement will create a valid first priority Lien on and a first priority perfected security interest in favor of Agent, on behalf of itself and the Lenders, in the Pledged Collateral and the proceeds thereof, securing the payment of the Secured Obligations, subject to no other Lien other than Permitted Liens;

(h) This Pledge Agreement has been duly authorized, executed and delivered by Pledgor and constitutes a legal, valid and binding obligation of Pledgor enforceable against Pledgor in accordance with its terms;

(i) The Pledged Shares constitute the percentage of the issued and outstanding shares of Stock of each Pledged Entity as set forth in Schedule I; and

(j) None of the Pledged Indebtedness is subordinated in right of payment to other Indebtedness (except for the Secured Obligations) or subject to the terms of an indenture.

The representations and warranties set forth in this Section 5 shall survive the execution and delivery of this Pledge Agreement.

6. Covenants. Each Pledgor covenants and agrees that until the Commitment Termination Date:

(a) Without the prior written consent of Agent, such Pledgor will not sell, assign, transfer, pledge, or otherwise encumber any of its rights in or to the Pledged Collateral, or any unpaid dividends, interest or other distributions or payments with respect to the Pledged Collateral or grant a Lien in the Pledged Collateral, unless otherwise expressly permitted by the Loan Agreement (including Permitted Liens);

(b) Such Pledgor will, at its expense, promptly execute, acknowledge and deliver all such instruments and take all such actions as Agent from time to time may reasonably request in order to ensure to Agent the benefits of the Liens in and to the Pledged Collateral intended to be created by this Pledge Agreement, including the filing of any necessary Uniform Commercial Code financing statements, which may be filed by Agent with or (to the extent permitted by law) without the signature of such Pledgor, and will cooperate with Agent, at such Pledgor's expense, in obtaining all necessary approvals and making all necessary filings under federal, state, local or foreign law in connection with such Liens or any sale or transfer of the Pledged Collateral; provided that a pledge pursuant to the laws of any jurisdiction outside of the United States is not required for the pledge of the Pacira Limited stock;

(c) Such Pledgor has and will, to the extent that it is commercially reasonable to do so, defend the title to the Pledged Collateral and the Liens of Agent in the Pledged Collateral against the claim of any person or entity and will maintain and preserve such Liens; and

(d) Pledgor will, upon obtaining ownership of any additional Stock or promissory notes or instruments of a Pledged Entity or Stock or promissory notes or instruments otherwise required to be pledged to Agent pursuant to any of the Debt Documents, which Stock, notes or instruments are not already Pledged Collateral, promptly (and in any event within three (3) Business Days) deliver to Agent a Pledge Amendment, duly executed by Pledgor, in substantially the form of Exhibit A hereto (a "Pledge Amendment") in respect of any such additional Stock, notes or instruments, pursuant to which Pledgor shall pledge to Agent all of such additional Stock, notes and instruments. Pledgor hereby authorizes Agent to attach each Pledge Amendment to this Pledge Agreement and agrees that all Pledged Shares and Pledged Indebtedness listed on any Pledge Amendment delivered to Agent shall for all purposes hereunder be considered Pledged Collateral.

7. Pledgor's Rights. As long as no Default or Event of Default shall have occurred and be continuing and until written notice shall be given to the Pledgors in accordance with Section 8(a) hereof:

(a) Each Pledgor shall have the right, from time to time, to vote and give consents with respect to the Pledged Collateral, or any part thereof for all purposes not inconsistent with the provisions of this Pledge Agreement, the Loan Agreement or any other Debt Document; provided, however, that no vote shall be cast, and no consent shall be given or action taken, which would have the effect of impairing the position or interest of Agent in respect of the Pledged Collateral or which would authorize, effect or consent to (unless and to the extent expressly permitted by the Loan Agreement):

(i) the dissolution or liquidation, in whole or in part, of a Pledged Entity;

(ii) the consolidation or merger of a Pledged Entity with any other person or entity;

(iii) the sale, disposition or encumbrance of all or substantially all of the assets of a Pledged Entity, except for Liens in favor of Agent;

(iv) any change in the authorized number of shares, the stated capital or the authorized share capital of a Pledged Entity or the issuance of any additional shares of its Stock; or

(v) the alteration of the voting rights with respect to the Stock of a Pledged Entity; and

(b) each Pledgor shall be entitled, from time to time, to collect and receive for its own use all cash dividends and interest paid in respect of the Pledged Shares and Pledged Indebtedness to the extent not in violation of the Loan Agreement other than any and all: (A) dividends and interest paid or payable other than in cash in respect of any Pledged Collateral, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral; (B) dividends and other distributions paid or payable in cash in respect of any Pledged Shares in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in capital of a Pledged Entity; and (C) cash paid, payable or otherwise distributed, in respect of principal of, or in redemption of, or in exchange for, any Pledged Stock; provided, however, that until actually paid all rights to such distributions shall remain subject to the Lien created by this Pledge Agreement; and

(c) all dividends and interest (other than such cash dividends and interest as are permitted to be paid to each Pledgor in accordance with clause (i) above) and all other distributions in respect of any of the Pledged Shares or Pledged Indebtedness, whenever paid or made, shall be delivered to Agent to hold as Pledged Collateral and shall, if received by such Pledgor, be received in trust for the benefit of Agent, be segregated from the other property or funds of such Pledgor, and be forthwith delivered to Agent as Pledged Collateral in the same form as so received (with any necessary indorsement).

8. Defaults and Remedies: Proxy.

(a) Upon the occurrence of an Event of Default and during the continuation of such Event of Default, and concurrently with written notice to Borrower, Agent (personally or through an agent) is hereby authorized and empowered to transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations, to exercise the voting and all other rights as a holder with respect thereto, to collect and receive all cash dividends, interest, principal and other distributions made thereon, to sell in one or more sales after ten (10) days' prior written notice to the applicable Pledgor of the time and place of any public sale or of the time at which a private sale is to take place (which notice each Pledgor agrees is commercially reasonable) the whole or any part of the Pledged Collateral and to otherwise act with respect to the Pledged Collateral as though Agent was the outright owner thereof. Any sale shall be made at a public or private sale

at Agent's place of business, or at any place to be named in the notice of sale, either for cash or upon credit or for future delivery at such price as Agent may deem fair, and Agent may be the purchaser of the whole or any part of the Pledged Collateral so sold and hold the same thereafter in its own right free from any claim of any Pledgor or any right of redemption. Each sale shall be made to the highest bidder, but Agent reserves the right to reject any and all bids at such sale which, in its discretion, it shall deem inadequate. Demands of performance, except as otherwise herein specifically provided for, notices of sale, advertisements and the presence of property at sale are hereby waived and any sale hereunder may be conducted by an auctioneer or any officer or agent of Agent. EACH PLEDGOR HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS AGENT AS THE PROXY AND ATTORNEY-IN-FACT OF PLEDGOR WITH RESPECT TO THE PLEDGED COLLATERAL, INCLUDING THE RIGHT (SUBJECT TO THE LIMITATIONS IN SECTION 7) TO VOTE THE PLEDGED SHARES, WITH FULL POWER OF SUBSTITUTION TO DO SO. THE APPOINTMENT OF AGENT AS PROXY AND ATTORNEY-IN-FACT IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE TERMINATION DATE. IN ADDITION TO THE RIGHT TO VOTE THE PLEDGED SHARES, THE APPOINTMENT OF AGENT AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE RIGHT, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT AND DURING THE CONTINUATION OF SUCH EVENT OF DEFAULT, TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF THE PLEDGED SHARES WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY PLEDGED SHARES ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF THE PLEDGED SHARES OR ANY OFFICER OR AGENT THEREOF), UPON THE OCCURRENCE OF AN EVENT OF DEFAULT. NOTWITHSTANDING THE FOREGOING, AGENT SHALL NOT HAVE ANY DUTY TO EXERCISE ANY SUCH RIGHT OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO.

(b) If, at the original time or times appointed for the sale of the whole or any part of the Pledged Collateral, the highest bid, if there be but one sale, shall be inadequate to discharge in full all the Secured Obligations, or if the Pledged Collateral be offered for sale in lots, if at any of such sales, the highest bid for the lot offered for sale would indicate to Agent, in its discretion, that the proceeds of the sales of the whole of the Pledged Collateral would be unlikely to be sufficient to discharge all the Secured Obligations, Agent may, on one or more occasions and in its discretion, postpone any of said sales by public announcement at the time of sale or the time of previous postponement of sale, and no other notice of such postponement or postponements of sale need be given, any other notice being hereby waived; provided, however, that any sale or sales made after such postponement shall be after ten (10) days' notice to the applicable Pledgor.

(c) If, at any time when Agent in its sole discretion determines, following the occurrence and during the continuance of an Event of Default, that, in connection with any actual or contemplated exercise of its rights (when permitted under this Section 8) to sell the whole or any part of the Pledged Shares hereunder, it is necessary or advisable to effect a public registration of all or part of the Pledged Collateral pursuant to the Securities Act of 1933, as amended (or any similar statute then in effect) (the "Act"), the applicable Pledgor shall, in an expeditious manner, cause the Pledged Entities to:

(i) Prepare and file with the Securities and Exchange Commission (the "Commission") a registration statement with respect to the Pledged Shares and in good faith use commercially reasonable efforts to cause such registration statement to become and remain effective;

(ii) Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective and to comply with the provisions of the Act with respect to the sale or other disposition of the Pledged Shares covered by such registration statement whenever Agent shall desire to sell or otherwise dispose of the Pledged Shares;

(iii) Furnish to Agent such numbers of copies of a prospectus and a preliminary prospectus, in conformity with the requirements of the Act, and such other documents as Agent may request in order to facilitate the public sale or other disposition of the Pledged Shares by Agent;

(iv) Use commercially reasonable efforts to register or qualify the Pledged Shares covered by such registration statement under such other securities or blue sky laws of such jurisdictions within the United States and Puerto Rico as Agent shall request, and do such other reasonable acts and things as may be required of it to enable Agent to consummate the public sale or other disposition in such jurisdictions of the Pledged Shares by Agent;

(v) Furnish, at the request of Agent, on the date that shares of the Pledged Collateral are delivered to the underwriters for sale pursuant to such registration or, if the security is not being sold through underwriters, on the date that the registration statement with respect to such Pledged Shares becomes effective, (A) an opinion, dated such date, of the independent counsel representing such registrant for the purposes of such registration, addressed to the underwriters, if any, and in the event the Pledged Shares are not being sold through underwriters, then to Agent, in customary form and covering matters of the type customarily covered in such legal opinions; and (B) a comfort letter, dated such date, from the independent certified public accountants of such registrant, addressed to the underwriters, if any, and in the event the Pledged Shares are not being sold through underwriters, then to Agent, in a customary form and covering matters of the type customarily covered by such comfort letters and as the underwriters or Agent shall reasonably request. The opinion of counsel referred to above shall additionally cover such other legal matters with respect to the registration in respect of which such opinion is being given as Agent may reasonably request. The letter referred to above from the independent certified public accountants shall additionally cover such other financial matters (including information as to the period ending not more than five (5) Business Days prior to the date of such letter) with respect to the registration in respect of which such letter is being given as Agent may reasonably request; and

(vi) Otherwise use commercially reasonable efforts comply with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable but not later than 18 months after the effective date of the registration statement, an earnings statement covering the period of at least 12 months beginning with the first full month after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 12(a) of the Act.

(d) All reasonable expenses incurred in complying with Section 8(c) hereof, including, without limitation, all registration and filing fees (including all expenses incident to

filing with the National Association of Securities Dealers, Inc.), printing expenses, fees and disbursements of counsel for the registrant, the fees and expenses of counsel for Agent, expenses of the independent certified public accountants (including any special audits incident to or required by any such registration) and expenses of complying with the securities or blue sky laws or any jurisdictions, shall be paid by the Pledgors.

(e) If, at any time when Agent shall determine to exercise its right to sell the whole or any part of the Pledged Collateral hereunder, such Pledged Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Act, Agent may, in its discretion (subject only to applicable requirements of law), sell such Pledged Collateral or part thereof by private sale in such manner and under such circumstances as Agent may deem necessary or advisable, but subject to the other requirements of this Section 8, and shall not be required to effect such registration or to cause the same to be effected. Without limiting the generality of the foregoing, in any such event, Agent in its discretion (x) may, in accordance with applicable securities laws, proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Pledged Collateral or part thereof could be or shall have been filed under said Act (or similar statute), (y) may approach and negotiate with a single possible purchaser to effect such sale, and (z) may restrict such sale to a purchaser who is an accredited investor under the Act and who will represent and agree that such purchaser is purchasing for its own account, for investment and not with a view to the distribution or sale of such Pledged Collateral or any part thereof. In addition to a private sale as provided above in this Section 8, if any of the Pledged Collateral shall not be freely distributable to the public without registration under the Act (or similar statute) at the time of any proposed sale pursuant to this Section 8, then Agent shall not be required to effect such registration or cause the same to be effected but, in its discretion (subject only to applicable requirements of law), may require that any sale hereunder (including a sale at auction) be conducted subject to restrictions:

(i) as to the financial sophistication and ability of any person or entity permitted to bid or purchase at any such sale;

(ii) as to the content of legends to be placed upon any certificates representing the Pledged Collateral sold in such sale, including restrictions on future transfer thereof;

(iii) as to the representations required to be made by each person or entity bidding or purchasing at such sale relating to that person's or entity's access to financial information about the Pledgors and such person's or entity's intentions as to the holding of the Pledged Collateral so sold for investment for its own account and not with a view to the distribution thereof; and

(iv) as to such other matters as Agent may, in its discretion, deem necessary or appropriate in order that such sale (notwithstanding any failure so to register) may be effected in compliance with the Bankruptcy Code and other laws affecting the enforcement of creditors' rights and the Act and all applicable state securities laws.

(f) Each Pledgor recognizes that Agent may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof in accordance with clause (e) above. Each Pledgor also acknowledges that any such private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such

sale being private. Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit the Pledged Entity to register such securities for public sale under the Act, or under applicable state securities laws, even if the applicable Pledgor and the Pledged Entity would agree to do so.

(g) Each Pledgor agrees to the maximum extent permitted by applicable law that following the occurrence and during the continuance of an Event of Default it will not at any time plead, claim or take the benefit of any appraisal, valuation, stay, extension, moratorium or redemption law now or hereafter in force in order to prevent or delay the enforcement of this Pledge Agreement, or the absolute sale of the whole or any part of the Pledged Collateral or the possession thereof by any purchaser at any sale hereunder, and each Pledgor waives the benefit of all such laws to the extent it lawfully may do so. Each Pledgor agrees that it will not interfere with any right, power and remedy of Agent provided for in this Pledge Agreement or now or hereafter existing at law or in equity or by statute or otherwise, or the exercise or beginning of the exercise by Agent of any one or more of such rights, powers or remedies. No failure or delay on the part of Agent to exercise any such right, power or remedy and no notice or demand which may be given to or made upon any Pledgor by Agent with respect to any such remedies shall operate as a waiver thereof, or limit or impair Agent's right to take any action or to exercise any power or remedy hereunder, without notice or demand, or prejudice its rights as against any Pledgor in any respect.

(h) Each Pledgor further agrees that a breach of any of the covenants contained in this Section 8 will cause irreparable injury to Agent, that Agent shall have no adequate remedy at law in respect of such breach and, as a consequence, agrees that each and every covenant contained in this Section 8 shall be specifically enforceable against Pledgor, and each Pledgor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that the Secured Obligations are not then due and payable in accordance with the agreements and instruments governing and evidencing such obligations.

9. Assignment. Agent may assign, indorse or transfer any instrument evidencing all or any part of the Secured Obligations as provided in, and in accordance with, the Loan Agreement, and the holder of such instrument shall be entitled to the benefits of this Pledge Agreement.

10. Termination. Immediately following the Termination Date, Agent shall deliver to the applicable Pledgor the Pledged Collateral pledged by such Pledgor at the time subject to this Pledge Agreement and all instruments of assignment executed in connection therewith, free and clear of the Liens hereof and, except as otherwise provided herein, all of such Pledgor's obligations hereunder shall at such time terminate.

11. Lien Absolute. All rights of Agent, on behalf of itself and the Lenders, hereunder, and all obligations of each Pledgor hereunder, shall be absolute and unconditional irrespective of:

(a) any lack of validity or enforceability of the Loan Agreement, any other Debt Document or any other agreement or instrument governing or evidencing any Secured Obligations;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any part of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Loan Agreement, any other Debt Document or any other agreement or instrument governing or evidencing any Secured Obligations;

(c) any exchange, release or non-perfection of any other Collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations;

(d) the insolvency of any Loan Party; or

(e) any other circumstance which might otherwise constitute a defense available to, or a discharge of, any Pledgor.

12. Release. Each Pledgor consents and agrees that Agent may at any time, or from time to time, in its discretion:

(a) renew, extend or change the time of payment, and/or the manner, place or terms of payment of all or any part of the Secured Obligations; and

(b) exchange, release and/or surrender all or any of the Collateral (including the Pledged Collateral), or any part thereof, by whomsoever deposited, which is now or may hereafter be held by Agent in connection with all or any of the Secured Obligations; all in such manner and upon such terms as Agent may deem proper, and without notice to or further assent from any Pledgor, it being hereby agreed mat each Pledgor shall be and remain bound upon this Pledge Agreement, irrespective of the value or condition of any of the Collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, renewal or extension, and notwithstanding also that the Secured Obligations may, at any time, exceed the aggregate principal amount thereof set forth in the Loan Agreement, or any other agreement governing any Secured Obligations. Each Pledgor hereby waives notice of acceptance of this Pledge Agreement, and also presentment, demand, protest and notice of dishonor of any and all of the Secured Obligations, and promptness in commencing suit against any party hereto or liable hereon, and in giving any notice to or of making any claim or demand hereunder upon any Pledgor. No act or omission of any kind on Agent's part shall in any event affect or impair this Pledge Agreement.

13. Reinstatement. This Pledge Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Pledgor or any Pledged Entity for liquidation or reorganization, should any Pledgor or any Pledged Entity become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of a Pledgor's or a Pledged Entity's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference", "fraudulent conveyance", or otherwise, as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

14. Notices. Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Pledge Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Loan Agreement.

15. Severability. Whenever possible, each provision of this Pledge Agreement shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Pledge Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Pledge Agreement. This Pledge Agreement is to be read, construed and applied together with the Loan Agreement and the other Debt Documents which, taken together, set forth the complete understanding and agreement of Agent and the Pledgors with respect to the matters referred to herein and therein.

16. No Waiver; Cumulative Remedies. Agent shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by Agent and then only to the extent therein set forth. A waiver by Agent of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Agent would otherwise have had on any future occasion. No failure to exercise nor any delay in exercising on the part of Agent, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Pledge Agreement may be waived, altered, modified or amended except by an instrument in writing, duly executed by Agent and the Pledgors.

17. Limitation By Law. All rights, remedies and powers provided in this Pledge Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Pledge Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Pledge Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

18. Successors And Assigns . This Pledge Agreement and all obligations of the Pledgors hereunder shall be binding upon the successors and assigns of each Pledgor (including any debtor-in-possession on behalf of such Pledgor) and shall, together with the rights and remedies of Agent, hereunder, inure to Agent, all future holders of any instrument evidencing any of the obligations and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the obligations or any portion thereof or interest therein shall in any manner impair the Lien granted to Agent, hereunder. No Pledgor may assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Pledge Agreement.

19. Counterparts. This Pledge Agreement may be authenticated in any number of separate counterparts each of which shall collectively and separately constitute one agreement. This Pledge Agreement may be authenticated by manual signature, facsimile or, if approved in writing by Agent, electronic means, all of which shall be equally valid.

20. Governing Law. THIS PLEDGE AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE,

REGARDLESS OF THE LOCATION OF THE COLLATERAL. IF ANY ACTION ARISING OUT OF THIS AGREEMENT IS COMMENCED BY AGENT IN THE STATE COURTS OF THE STATE OF NEW YORK OR IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, EACH PLEDGOR HEREBY CONSENTS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH ACTION AND TO THE LAYING OF VENUE IN THE STATE OF NEW YORK. EACH PLEDGOR HEREBY AGREES THAT ANY PROCESS IN ANY SUCH ACTION SHALL BE DULY SERVED IF MAILED BY REGISTERED MAIL, POSTAGE PREPAID, TO BORROWER AT ITS ADDRESS DESCRIBED IN SECTION 10.2 OF THE LOAN AGREEMENT, OR IF SERVED BY ANY OTHER MEANS PERMITTED BY APPLICABLE LAW.

21. Waiver Of Jury Trial. EACH OF THE PLEDGORS, AGENT AND LENDERS UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS PLEDGE AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS AMONG THE LOAN PARTIES, AGENT AND/OR LENDERS RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED AMONG THE LOAN PARTIES, AGENT AND/OR LENDERS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. THIS WAIVER IS IRREVOCABLE. THIS WAIVER MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING. THE WAIVER ALSO SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS PLEDGE AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. THIS PLEDGE AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

22. Section Titles. The Section titles contained in this Pledge Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

23. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Pledge Agreement. In the event an ambiguity or question of intent or interpretation arises, this Pledge Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Pledge Agreement.

24. Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed this Pledge Agreement and, specifically, the provisions of Section 20 and Section 21, with its counsel.

25. Benefit of Agent. All Liens granted or contemplated hereby shall be for the benefit of Agent, on behalf of itself, and all proceeds or payments realized from Pledged Collateral in accordance herewith shall be applied to the Secured Obligations in accordance with the terms of the Loan Agreement.

[signature page follows]

IN WITNESS WHEREOF, each of the parties hereto has caused this Pledge Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

PLEDGORS:

PACIRA PHARMACEUTICALS INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

PACIRA, INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

GENERAL ELECTRIC CAPITAL CORPORATION, as Agent

By: /s/ R. Hanes Whiteley

Name: R. Hanes Whiteley

Title: Duly Authorized Signatory

SCHEDULE I

PART A

PLEDGED SHARES

Pledged Entity	Class of Stock	Stock Certificate Number(s)	Number of Shares	Percentage of Outstanding Shares
Pacira Pharmaceuticals, Inc.	Common	1	1,000	100%
Pacira Limited	TBD	N/A	TBD	6 5%

PART B

PLEDGED INDEBTEDNESS

Pledged Entity	Initial Principal Amount	Issue Date	Maturity Date	Interest Rate
N/A				

Exhibit A

PLEDGE AMENDMENT

This Pledge Amendment, dated _____, 2010 is delivered pursuant to Section 6(d) of the Pledge Agreement referred to below. All defined terms herein shall have the meanings ascribed thereto or incorporated by reference in the Pledge Agreement. The undersigned hereby certifies that the representations and warranties in Section 5 of the Pledge Agreement are and continue to be true and correct, both as to the promissory notes, instruments and shares pledged prior to this Pledge Amendment and as to the promissory notes, instruments and shares pledged pursuant to this Pledge Amendment. The undersigned further agrees that this Pledge Amendment may be attached to that certain Pledge Agreement, dated April 30, 2010, between undersigned, as Pledgor, the other Pledgors signatory thereto and General Electric Capital Corporation, as Agent, (the "Pledge Agreement") and that the Pledged Shares and Pledged Indebtedness listed on this Pledge Amendment shall be and become a part of the Pledged Collateral referred to in said Pledge Agreement and shall secure all Secured Obligations referred to in said Pledge Agreement. The undersigned acknowledges that any promissory notes, instruments or shares not included in the Pledged Collateral at the discretion of Agent may not otherwise be pledged by Pledgor to any other person or entity otherwise used as security for any obligations other than the Secured Obligations.

[NAME OF PLEDGOR]

By:
Name:
Title:

Name and Address of Pledgor	Pledged Entity	Class of Stock	Certificate Number(s)	Number of Shares	Percentage of Outstanding Shares

Pledged Entity	Initial Principal Amount	Issue Date	Maturity Date	Interest Rate

Execution Copy

Exhibit 10.31

GUARANTY

This GUARANTY (this "Guaranty"), dated as of April 30, 2010, by and between PACIRA, INC, a Delaware corporation (" Guarantor") and GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation, individually and as agent (in such capacity and together with any successors, endorsees and assigns, "Agent") for itself and the lenders from time to time party to the Loan Agreement hereinafter defined (collectively, the " Lenders").

W I T N E S S E T H :

WHEREAS, pursuant to that certain Loan and Security Agreement (the " Loan Agreement") dated as of the date hereof (including all annexes, exhibits and schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the " Loan Agreement") by and among PACIRA PHARAMACEUTICALS, INC, a California corporation (" Borrower"), the other Loan Parties party thereto, the Lenders and Agent, the Lenders have severally agreed to make extensions of credit to Borrower upon the terms and subject to the conditions set forth therein; and

WHEREAS, Guarantor is the direct parent of Borrower and as such will derive direct and indirect economic benefits from the making of the Term Loans and other financial accommodations provided to Borrower pursuant to the Loan Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and to induce the Lenders and the Agent to enter into the Loan Agreement and to induce the Lenders to make their respective extensions of credit to Borrower thereunder, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. DEFINITIONS.

(a) Capitalized terms used herein shall have the meanings assigned to them in the Loan Agreement, unless otherwise defined herein.

(b) References to this "Guaranty" shall mean this Guaranty, including all amendments, modifications and supplements and any annexes, exhibits and schedules to any of the foregoing, and shall refer to this Guaranty as the same may be in effect at the time such reference becomes operative.

2. THE GUARANTY.

2.1. Guaranty of Guaranteed Obligations of Borrower. Guarantor hereby unconditionally guarantees to Agent and Lenders, and their respective successors, endorsees, transferees and assigns, the prompt payment (whether at stated maturity, by acceleration or otherwise) and performance of the Obligations of Borrower (hereinafter the "Guaranteed Obligations"). Guarantor agrees that this Guaranty is a guaranty of payment and performance and not of collection, and that its obligations under this Guaranty shall be primary, absolute and unconditional, irrespective of, and unaffected by:

(a) the genuineness, validity, regularity, enforceability or any future amendment of, or change in this Guaranty, any other Debt Document or any other agreement, document or instrument to which any Loan Party and/or Guarantor is or may become a party;

(b) the absence of any action to enforce this Guaranty or any other Debt Document or the waiver or consent by Agent and/or Lenders with respect to any of the provisions thereof;

(c) the existence, value or condition of, or failure to perfect its lien against, any Collateral for the Guaranteed Obligations or any action, or the absence of any action, by Agent in respect thereof (including, without limitation, the release of any such security);

(d) the insolvency of any Loan Party; or

(e) any other action or circumstances which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor,

it being agreed by Guarantor that its obligations under this Guaranty shall not be discharged until the Termination Date. Guarantor shall be regarded, and shall be in the same position, as principal debtor with respect to the Guaranteed Obligations. Guarantor agrees that any notice or directive given at any time to Agent which is inconsistent with the waiver in the immediately preceding sentence shall be null and void and may be ignored by Agent and Lenders, and, in addition, may not be pleaded or introduced as evidence in any litigation relating to this Guaranty for the reason that such pleading or introduction would be at variance with the written terms of this Guaranty, unless Agent and Lenders have specifically agreed otherwise in writing. It is agreed among Guarantor, Agent and Lenders that the foregoing waivers are of the essence of the transaction contemplated by the Debt Documents and that, but for this Guaranty and such waivers, Agent and Lenders would decline to enter into the Loan Agreement.

2.2. Demand by Agent or Lenders. In addition to the terms of the Guaranty set forth in **Section 2.1** hereof, and in no manner imposing any limitation on such terms, it is expressly understood and agreed that, if, at any time, the outstanding principal amount of the Guaranteed Obligations under the Loan Agreement (including all accrued interest thereon) is declared to be immediately due and payable in accordance with the terms thereof, then Guarantor shall, without demand, pay to the holders of the Guaranteed Obligations the entire outstanding Guaranteed Obligations due and owing to such holders. Payment by Guarantor shall be made to Agent in immediately available federal funds to an account designated by Agent or at the address set forth in the Loan Agreement for the giving of notice to Agent or at any other address that may be specified in writing from time to time by Agent, and shall be credited and applied to the Guaranteed Obligations.

2.3. Enforcement of Guaranty. In no event shall Agent have any obligation (although it is entitled, at its option) to proceed against Borrower or any other Loan Party or any Collateral pledged to secure Guaranteed Obligations before seeking satisfaction from the Guarantor, and Agent may proceed, prior or subsequent to, or simultaneously with, the

enforcement of Agent's rights hereunder, to exercise any right or remedy which it may have against any Collateral, as a result of any lien it may have as security for all or any portion of the Guaranteed Obligations.

2.4. Waiver. In addition to the waivers contained in **Section 2.1** hereof, Guarantor waives, and agrees that it shall not at any time insist upon, plead or in any manner whatever claim or take the benefit or advantage of, any appraisal, valuation, stay, extension, marshaling of assets or redemption laws, or exemption, whether now or at any time hereafter in force, which may delay, prevent or otherwise affect the performance by Guarantor of its Guaranteed Obligations under, or the enforcement by Agent or Lenders of, this Guaranty. Guarantor hereby waives diligence, presentment and demand (whether for non-payment or protest or of acceptance, maturity, extension of time, change in nature or form of the Guaranteed Obligations, acceptance of further security, release of further security, composition, or agreement arrived at as to the amount of, or the terms of, the Guaranteed Obligations, notice of adverse change in Borrower's financial condition or any other fact which might increase the risk to Guarantor) with respect to any of the Guaranteed Obligations or all other demands whatsoever and waives the benefit of all provisions of law which are or might be in conflict with the terms of this Guaranty. Guarantor represents, warrants and agrees that, as of the date of this Guaranty, its obligations under this Guaranty are not subject to any counterclaims, offsets or defenses against Agent or Lenders or any Loan Party of any kind. Guarantor further agrees that its obligations under this Guaranty shall not be subject to any counterclaims, offsets or deductions of any kind against Agent or any Lender or against any Loan Party of any kind which may arise in the future.

2.5. Benefit of Guaranty. The provisions of this Guaranty are for the benefit of Agent and Lenders and their respective successors, transferees, endorsees and assigns (in each case, to the extent such transfer or assignment is made in accordance with the Loan Agreement), and nothing herein contained shall impair, as between any Loan Party and Agent or Lenders, the obligations of any Loan Party under the Debt Documents. In the event all or any part of the Guaranteed Obligations are transferred, indorsed or assigned by Agent or any Lender to any person or entity, any reference to "Agent" or "Lender" herein shall be deemed to refer equally to such person or entity.

2.6. Modification of Guaranteed Obligations, Etc. Guarantor hereby acknowledges and agrees that Agent and Lenders may at any time or from time to time, with or without the consent of, or notice to, Guarantor:

(a) change or extend the manner, place or terms of payment of, or renew or alter all or any portion of, the Guaranteed Obligations;

(b) take any action under or in respect of the Debt Documents in the exercise of any remedy, power or privilege contained therein or available to it at law, equity or otherwise, or waive or refrain from exercising any such remedies, powers or privileges;

(c) amend or modify, in any manner whatsoever, the Debt Documents;

(d) extend or waive the time for any Loan Party's performance of; or

compliance with, any term, covenant or agreement on its part to be performed or observed under the Debt Documents, or waive such performance or compliance or consent to a failure of, or departure from, such performance or compliance;

(e) take and hold Collateral for the payment of the Guaranteed Obligations guaranteed hereby or sell, exchange, release, dispose of, or otherwise deal with, any property pledged, mortgaged or conveyed, or in which Agent or Lenders have been granted a lien, to secure any Obligations;

(f) release anyone who may be liable in any manner for the payment of any amounts owed by Guarantor or any Loan Party to Agent or any Lender;

(g) modify or terminate the terms of any intercreditor or subordination agreement pursuant to which claims of other creditors of Guarantor or any Loan Party are subordinated to the claims of Agent and Lenders; and/or

(h) apply any sums by whomever paid or however realized to any amounts owing by Guarantor or any Loan Party to Agent or any Lender in such manner as Agent or any Lender shall determine in its discretion;

and Agent and Lenders shall not incur any liability to Guarantor as a result thereof, and no such action shall impair or release the Guaranteed Obligations of Guarantor under this Guaranty.

2.7. Reinstatement. This Guaranty shall remain in full force and effect and continue to be effective should any petition be filed by or against any Loan Party or Guarantor for liquidation or reorganization, should any Loan Party or Guarantor become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of such Loan Party's or Guarantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by Agent or any Lender, whether as a "voidable preference", "fraudulent conveyance", or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

2.8. Waiver of Subrogation, Etc. Notwithstanding anything to the contrary in this Guaranty, or in any other Debt Document, Guarantor hereby:

(a) expressly and irrevocably waives, on behalf of itself and its successors and assigns (including any surety), any and all rights at law or in equity to subrogation, to reimbursement, to exoneration, to contribution, to indemnification, to set off or to any other rights that could accrue to a surety against a principal, to a guarantor against a principal, to a guarantor against a maker or obligor, to an accommodation party against the party accommodated, to a holder or transferee against a maker, or to the holder of any claim against any person or entity, and which Guarantor may have or hereafter acquire against any Loan Party in connection with or as a result of Guarantor's

execution, delivery and/or performance of this Guaranty, or any other documents to which Guarantor is a party or otherwise; and

(b) acknowledges and agrees (i) that this waiver is intended to benefit Agent and Lenders and shall not limit or otherwise affect Guarantor's liability hereunder or the enforceability of this Guaranty, and (ii) that Agent, Lenders and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this **Section 2.8** and their rights under this **Section 2.8** shall survive payment in full of the Guaranteed Obligations.

2.9. Election of Remedies. If Agent may, under applicable law, proceed to realize benefits under any of the Debt Documents giving Agent and Lenders a lien upon any Collateral owned by any Loan Party, either by judicial foreclosure or by non-judicial sale or enforcement, Agent may, at its sole option, determine which of such remedies or rights it may pursue without affecting any of such rights and remedies under this Guaranty. If, in the exercise of any of its rights and remedies, Agent shall forfeit any of its rights or remedies, including its right to enter a deficiency judgment against any Loan Party, whether because of any applicable laws pertaining to "election of remedies" or the like, Guarantor hereby consents to such action by Agent and waives any claim based upon such action, even if such action by Agent shall result in a full or partial loss of any rights of subrogation which Guarantor might otherwise have had but for such action by Agent. Any election of remedies which results in the denial or impairment of the right of Agent to seek a deficiency judgment against any Loan Party shall not impair Guarantor's obligation to pay the full amount of the Guaranteed Obligations. In the event Agent shall bid at any foreclosure or trustee's sale or at any private sale permitted by law or the Debt Documents, Agent may bid all or less than the amount of the Guaranteed Obligations and the amount of such bid need not be paid by Agent but shall be credited against the Guaranteed Obligations. The amount of the successful bid at any such sale shall be conclusively deemed to be the fair market value of the collateral and the difference between such bid amount and the remaining balance of the Guaranteed Obligations shall be conclusively deemed to be the amount of the Guaranteed Obligations guaranteed under this Guaranty, notwithstanding that any present or future law or court decision or ruling may have the effect of reducing the amount of any deficiency claim to which Agent and Lenders might otherwise be entitled but for such bidding at any such sale.

3. FURTHER ASSURANCES.

Guarantor agrees, upon the written request of Agent or any Lender, to execute and deliver to Agent or such Lender, from time to time, any additional instruments or documents reasonably requested by Agent or such Lender to cause this Guaranty to be, become or remain valid and effective in accordance with its terms or for the purpose of carrying out the intent of this Guaranty.

4. PAYMENTS FREE AND CLEAR OF TAXES.

All payments under this Guaranty shall be made free and clear of any taxes, withholdings, duties, impositions or other charges (other than taxes on the overall net income of

any Lender and comparable taxes), such that Agent and Lenders will receive the entire amount of any Guaranteed Obligations, regardless of source of payment.

5. OTHER TERMS.

5.1. Entire Agreement. This Guaranty, together with the other Debt Documents, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements relating to a guaranty of the loans and advances under the Debt Documents and/or the Guaranteed Obligations.

5.2. Headings. The headings in this Guaranty are for convenience of reference only and are not part of the substance of this Guaranty.

5.3. Severability. Whenever possible, each provision of this Guaranty shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

5.4. Notices. Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Guaranty, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Loan Agreement.

5.5. Successors and Assigns. This Guaranty and all obligations of Guarantor hereunder shall be binding upon the successors and assigns of Guarantor (including a debtor-in- possession on behalf of Guarantor) and shall, together with the rights and remedies of Agent, for itself and for the benefit of Lenders, thereunder, inure to the benefit of Agent and Lenders, all future holders of any instrument evidencing any of the Obligations and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Obligations or any portion thereof or interest therein shall in any manner affect the rights of Agent and Lenders hereunder. Guarantor may not assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Guaranty.

5.6. No Waiver; Cumulative Remedies; Amendments. Neither Agent nor any Lender shall by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by Agent and then only to the extent therein set forth. A waiver by Agent, for itself and the ratable benefit of Lenders, of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Agent would otherwise have had on any future occasion. No failure to exercise nor any delay in exercising on the part of Agent or any Lender, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the

exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Guaranty may be waived, altered, modified, supplemented or amended except by an instrument in writing, duly executed by Agent and Guarantor.

5.7. Termination. This Guaranty is a continuing guaranty and shall remain in full force and effect until the Termination Date. Upon payment and performance in full of the Guaranteed Obligations, Agent shall deliver to Guarantor such documents as Guarantor may reasonably request to evidence such termination.

5.8. Counterparts. This Guaranty may be executed in any number of counterparts, each of which shall collectively and separately constitute one and the same agreement.

5.9. Limitation on Guaranteed Obligations. Notwithstanding any provision herein contained to the contrary, Guarantor's liability hereunder shall be limited, on a joint and several basis, to an amount not to exceed as of any date of determination the greater of:

(a) the net amount of the Term Loans and other extensions of credit advanced under the Loan Agreement and directly or indirectly re-loaned or otherwise transferred to, or incurred for the benefit of, Guarantor, plus interest thereon at the applicable rate specified in the Loan Agreement; or

(b) the amount which could be claimed by the Agent and Lenders from such Guarantor under this Guaranty without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law after taking into account, among other things, Guarantor's right of contribution and indemnification from any other guarantor of the Term Loans.

6. SECURITY.

To secure payment of Guarantor's obligations under this Guaranty, concurrently with the execution of this Guaranty, Guarantor has entered into the Loan Agreement pursuant to which Guarantor has granted to Agent for the benefit of the Lenders a security interest in substantially all of its personal property and has entered into a Pledge Agreement pursuant to which Guarantor has pledged all of the stock of each of its Subsidiaries, among other collateral, to Agent for the benefit of the Lenders.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Guaranty as of the date first above written.

Guarantor:

PACIRA, INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

Agent:

GENERAL ELECTRIC CAPITAL CORPORATION, as Agent

By: _____
Name: _____
Title: Duly Authorized Signatory Officer

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Guaranty as of the date first above written.

Guarantor:

PACIRA, INC.

By: _____
Name: _____
Title: _____

Agent:

GENERAL ELECTRIC CAPITAL CORPORATION, as Agent

By: /s/ R. Hanes Whiteley
Name: R. Hanes Whiteley
Title: Duly Authorized Signatory

Execution Copy

Exhibit 10.32

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This INTELLECTUAL PROPERTY SECURITY AGREEMENT (this "**Agreement**"), dated as of April 30, 2010, is made by **PACIRA PHARMACEUTICALS, INC.**, a California corporation ("**Grantor**"), in favor of **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation, in its capacity as agent (in such capacity, together with any successors, endorsees and assigns, the " **Agent**") for itself and the lenders from time to time party to the Loan Agreement hereinafter defined (collectively, the "**Lenders**").

W I T N E S S E T H:

WHEREAS, Grantor, Agent and Lenders are parties to the Loan and Security Agreement, dated as of the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the " **Loan Agreement**"), pursuant to which Lenders have agreed to provide to Grantor certain loans and other extensions of credit in accordance with the terms and conditions thereof; and

WHEREAS, pursuant to the Loan Agreement, Grantor is required to execute and deliver this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and to induce Agent and Lenders to enter into the Loan Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby agrees with the Agent as follows:

Section 1. Defined Terms. Capitalized terms used herein without definition are used as defined in the Loan Agreement.

Section 2. Grant of Security Interest in Intellectual Property Collateral . Grantor, as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Obligations hereby mortgages, pledges and hypothecates to Agent, for the benefit of itself and Lenders, and grants to Agent, for the benefit of itself and Lenders, a Lien on and security interest in, all of its right, title and interest in, to and under the following Collateral of Grantor (the " **Intellectual Property Collateral**"):

(a) all of its trade secrets and rights under any written agreement granting any right to use trade secrets;

(b) all of its copyrights and rights under any written agreement granting any right to use copyrights, including, without limitation, those referred to on Schedule 1 hereto, together with all renewals, reversions and extensions of the foregoing;

(c) all of its trademarks and rights under any written agreement granting any right to use trademarks, including, without limitation, those referred to on Schedule 2 hereto, together with all renewals, reversions and extensions of the foregoing;

(d) all goodwill of the business connected with the use of, and symbolized by, each such trademark covered by clause (c) above;

(e) all of its US patents and rights under any written agreement granting any right to use US patents, including, without limitation, those owned by Grantor referred to on Schedule 3 hereto, together with all reissues, reexaminations, continuations, continuations-in-part, divisionals, renewals and extensions of the foregoing;

(f) all of its US patent applications and rights under any written agreement granting any right to use US patent applications, including, without limitation, those owned by Grantor referred to on Schedule 4 hereto, together with all reissues, reexaminations, continuations, continuations-in-part, divisionals, renewals and extensions of the foregoing;

(g) all of its PCT patent applications and rights under any written agreement granting any right to use PCT patent applications, together with all reissues, reexaminations, continuations, continuations-in-part, divisionals, renewals and extensions of the foregoing;

(h) all of its foreign patents and patent applications, and rights under any written agreement granting any right to use foreign patents and patent applications, together with all reissues, reexaminations, continuations, continuations-in-part, divisionals, renewals and extensions of the foregoing;

(i) all applications, registrations, claims, products, awards, judgments, amendments, improvements and insurance claims related thereto now or hereafter owned or licensed by Grantor, or any claims for damages by way of any past, present, or future infringement of any of the foregoing, together with all accessions and additions thereto, proceeds and products thereof (including, without limitation, any proceeds resulting under insurance policies); provided, further, that the Intellectual Property Collateral shall include, without limitation, all cash, royalty fees, other proceeds, accounts and general intangibles that consist of rights of payment to or on behalf of Grantor or proceeds from the sale, licensing or other disposition of all or any part of, or rights in, the Intellectual Property Collateral by or on behalf of Grantor; and

(j) all income, royalties, proceeds and liabilities at any time due or payable or asserted under and with respect to any of the foregoing, including, without limitation, all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.

Notwithstanding the foregoing the term "Intellectual Property Collateral" shall not include and shall exclude all Excluded Assets.

Section 3. Loan Agreement. The security interest granted pursuant to this Agreement is granted in conjunction with, and is in no way limiting, the security interest granted to Agent, for the benefit of itself and Lenders, pursuant to the Loan Agreement, and Grantor hereby acknowledges and agrees that the rights and remedies of Agent and Lenders with respect to the security interest in the Intellectual Property Collateral made and granted hereby are more fully set forth in the Loan Agreement, the terms and provisions of each of which are incorporated by reference herein as if fully set forth herein.

Section 4. Grantor Remains Liable. Grantor hereby agrees that, anything herein to the contrary notwithstanding, Grantor shall retain full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with their Intellectual Property subject to a security interest hereunder.

Section 5. Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

Section 6. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

[*Signature Pages Follow*]

In witness whereof, Grantor has caused this Intellectual Property Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

GRANTOR:

PACIRA PHARMACEUTICALS, INC.

By: /s/ James Scibetta
Name: James Scibetta
Title: Chief Financial Officer

ACCEPTED AND AGREED
as of the date first above written:

GENERAL ELECTRIC CAPITAL CORPORATION,
as Agent,

By: /s/ R. Hanes Whiteley
Name: R. Hanes Whiteley
Title: Duly Authorized Signatory

Schedule 1
to
Intellectual Property Security Agreement

None.

Schedule 2
to
Intellectual Property Security Agreement

US Trademarks – Registered or Applications Pending

Mark	Country	Class	App #	Filing Date	Reg #	Reg Date	Status
DEPOBUPIVACAINE	United States	5			3335843	11/13/07	Section 8 Affidavit due 11/13/13
DEPOCYT	United States	5			2390316	09/26/00	Renewal due 09/26/10
DEODUR	United States	5			2983713	08/09/05	Section 8 Affidavit due 08/09/11
DEPODUR and design [GRAPHIC APPEARS HERE]	United States	5			3252733	06/19/07	Section 8 Affidavit due 06/19/13
DEPODUR and design [GRAPHIC APPEARS HERE]	United States	16			3127414	08/08/06	Section 8 Affidavit due 08/08/12
DEPOFOAM	United States	5			3325579	10/30/07	Section 8 Affidavit due 10/30/13
DEPOFOAM	United States	40, 42			2443719	04/17/01	Renewal due 04/17/11
PACIRA	United States	5			3648129	06/30/09	Section 8 Affidavit due 06/30/15
PACIRA	United States	42			3651782	07/07/09	Section 8 Affidavit due 07/07/15

Schedule 3
to
Intellectual Property Security Agreement

US Patents – Registered

Method for Treating Neurological Disorders									
UNITED STATES	008001	PCIRA.006A	NEW	05/14/1993	08/062,799	10/03/1995	5,455,044	05/14/2013	ISSUED
UNITED STATES	008002.DIV1	PCIRA.006DVI	DIV	06/07/1995	08/484,501	11/19/1996	5,576,018	11/19/2013	ISSUED
Uniform Spherical Multilamellar Liposomes of Defined and Adjustable Size Distribution									
UNITED STATES	009001	PCIRA.7CP1CP1	NEW	04/25/1990	07/514,665	12/22/1992	5,173,219	12/22/2009	ISSUED
Heterovesicular Liposomes ***(to 020001)***									
UNITED STATES	016001	PCIRA.9CP1CP1	NEW	06/16/1993	08/078,701	06/06/1995	5,422,120	06/16/2013	ISSUED
Preparation of Multivesicular Liposomes for Controlled release of Biologically Active Compounds									
UNITED STATES	019001	PCIRA.012A	NEW	09/13/1994	08/305,158	11/30/1999	5,993,850	11/30/2016	ISSUED
Heterovesicular Liposomes									
UNITED STATES	020001	PCIRA.9CPCPCP	CIP	02/23/1995	08/393,724	11/19/1996	5,576,017	06/06/2012	ISSUED
Epidural Administration of Therapeutic Compounds with Sustained Rate of Release									
UNITED STATES	021001	PCIRA.013A	NEW	07/14/1995	08/502,569	08/03/1999	5,931,809	07/14/2015	ISSUED
UNITED STATES	021002	PCIRA.013C1	CON	09/16/1997	08/931,867	08/06/2002	6,428,529	07/14/2015	ISSUED
Multivesicular Liposomes for Controlled Release of Encapsulated Biologically Active Substances									
UNITED STATES	022002.DIV1	PCIRA.5CPCDV1	DIV	03/20/1998	09/045,236	10/17/2000	6,132,766	11/16/2013	ISSUED
Multivesicular Liposomes for Controlled Release of Encapsulated Biologically Active Substances									
UNITED STATES	023001	PCIRA.005CP2C1	R62	05/23/1997	08/862,589	06/16/1998	5,766,627	11/16/2013	ISSUED
Multivesicular Liposomes Having a Biologically Active Substance Encapsulated Therein in the Presence of a Hydrochloride									
UNITED STATES	024001	PCIRA.8PPCPCCP	CIP	06/06/1995	08/473,019	09/15/1998	5,807,572	09/15/2015	ISSUED
Multivesicular Liposomes Having a Biologically Active Substance Encapsulated Therein in the Presence of a Hydrochloride									
UNITED STATES	025001	PCIRA.8CPPCPCCP	CIP	06/06/1995	08/472,126	03/03/1998	5,723,147	03/03/2015	ISSUED
Cyclodextrin Liposomes Encapsulating Pharmacologic Compounds and Methods for Their Use									
UNITED STATES	027001	PCIRA.010NP	CIP	12/21/1995	08/535,256	06/02/1998	5,759,573	04/22/2014	ISSUED
Method for Producing Liposomes with Increased Percent of Compound Encapsulated									
UNITED STATES	030001	PCIRA.018A	NEW	10/01/1996	08/723,583	12/07/1999	5,997,899	10/01/2016	ISSUED
UNITED STATES	030002.DIV1	PCIRA.018DV3	DIV	11/01/1999	09/431,525	01/09/2001	6,171,613	10/01/2016	ISSUED
UNITED STATES	030003.DIV1	PCIRA.018DV1	DIV	11/01/1999	09/431,523	02/27/2001	6,193,998	10/01/2016	ISSUED
UNITED STATES	030005.CON1	PCIRA.018C1	CON	12/06/1999	09/454,521	06/05/2001	6,241,999	16/01/2016	ISSUED
Method for Utilizing Neutral Lipids to Modify In Vivo Release from Multivesicular Liposomes									
UNITED STATES	033001	PCIRA.021A	NEW	01/31/1997	08/792,566	04/06/1999	5,891,467	01/31/2017	ISSUED
UNITED STATES	033002	PCIRA.021DV1	DIV	11/19/1997	08/974,296	10/05/1999	5,962,016	01/31/2017	ISSUED
Modulation of Drug Loading in Multivesicular Liposomes									
UNITED STATES	039001	PCIRA.015A	NEW	09/08/1997	08/925,532	08/22/2000	6,106,858	09/08/2017	ISSUED
Sustained Release Liposomal Anesthetic Compositions									
UNITED STATES	041US1	PCIRA.014A	FCA	09/18/1998	09/156,214	04/04/2000	6,045,824	09/18/2018	ISSUED
Biodegradable Compositions for the Controlled Release of Encapsulated Substances									
UNITED STATES	051001	PCIRA.020A	FCA	07/16/1999	09/356,218	08/21/2001	6,277,413	07/16/2019	ISSUED
UNITED STATES	051002.DIV1	PCIRA.020DV1	DIV	05/17/2001	09/859,847	09/21/2004	6,793,938	08/14/2019	ISSUED

Schedule 4
to
Intellectual Property Security Agreement

US Patents: Pending

Sustained Release Liposomal Anesthetic Compositions						
UNITED STATES	041002.CONWO	PCIRA.014C1	DCA	04/01/2005	11/097,756	PENDING
Production of Multivesicular Liposomes						
UNITED STATES	043002	PCIRA.019C1	FCA	02/25/2007	11/678,615	PENDING
Encapsulation of Nanosuspensions in Liposomes and Microspheres						
UNITED STATES	080001	PCIRA.017A	FCA	05/31/2002	10/161,969	PENDING
Process for Manufacturing Multivesicular Liposomes						
UNITED STATES	096PO1		NEW			PROPOSED
Hyaluronidase As An Adjuvant For Increasing The Injection Volume And Dispersion Of Large Diameter Synthetic Membrane Vesicles Containing A Therapeutic Agent						
UNITED STATES	032PR	PCIRA.032PR	PRO	05/29/2009	61/182367	PENDING

Exhibit 10.33

FORM OF WARRANT

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

WARRANT TO PURCHASE SERIES A PREFERRED STOCK

Company: Pacira, Inc., a Delaware corporation (the "**Company**")
Shares: [250,000]
Class of Stock: Series A Preferred Stock
Exercise Price: $1.25 per share (the "**Exercise Price**")
Issue Date: July ___, 2009
Term: See Section 5.1

THIS WARRANT CERTIFIES THAT, for value received as consideration pursuant to that certain Second Amendment to Industrial Real Estate Lease, dated July 2, 2009, by and between LASDK Limited Partnership and Pacira Pharmaceuticals, Inc. and for other good and valuable consideration the sufficiency of which is hereby acknowledged, [ ] ("**Holder**") is entitled to purchase up to [Two Hundred Fifty Thousand (250,000)] fully paid and nonassessable shares of the Company's Series A Preferred Stock (the "**Shares**"), at the Exercise Price, all as set forth herein, subject to the provisions and upon the terms and conditions set forth in this Warrant. All references to "common stock" herein shall mean the common stock of the Company.

ARTICLE 1. EXERCISE.

1.1 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Appendix 1 hereto to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Article 1.2, Holder shall also deliver to the Company a check or wire transfer (to an account designated by the Company), for the aggregate Exercise Price for the Shares being purchased.

1.2 Conversion Right. In lieu of exercising this Warrant as specified in Article 1.1, Holder may from time to time convert this Warrant, in whole or in part, into a number of Shares determined by dividing (a) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this Warrant minus the aggregate Exercise Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Article 1.3.

1.3 Fair Market Value. If the common stock is traded in a public market and the Shares are common stock, the fair market value of each Share shall be the closing price of a share of common stock of the Company reported for the business day immediately before Holder delivers its Notice of Exercise to the Company (or in the instance where the Warrant is exercised immediately prior to the effectiveness of the Company's initial public offering, the "price to public" per share price specified in the final prospectus relating to such offering). If the common stock is not traded in a public market or the Shares are not common stock, then the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises or converts this Warrant and, if applicable, the Company receives payment of the aggregate Exercise Price, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, a new Warrant representing the Shares not so acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

ARTICLE 2. ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Combinations, Etc. If the Company declares or pays a dividend on the Shares payable in common stock, or other securities, then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend occurred. If the Company subdivides the Shares by reclassification or otherwise into a greater number of shares or takes any other action which increases the amount of stock into which the Shares are convertible, the number of shares purchasable hereunder shall be proportionately increased and the Exercise Price shall be proportionately decreased. If the outstanding shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Exercise Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange or Substitution, Etc. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant, Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. The Company or its successor shall promptly issue to Holder an amendment to this Warrant setting forth the number and kind of such new securities or other property issuable upon exercise or conversion of this Warrant as a result of such reclassification, exchange, substitution or other event that results in a change of the number and/or class of securities issuable upon exercise or conversion of this Warrant.

2.3 Merger or Consolidation. Upon any capital reorganization of the Company's capital stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 2) or a merger or consolidation of the Company with or into another corporation, then as a part of such reorganization, merger or consolidation, provision shall be made so that the Holder shall thereafter be entitled to receive upon the exercise or conversion of this Warrant, the number and kind of securities and property of the Company, or of the successor corporation resulting from such reorganization, merger or consolidation, to which that Holder would have received for the Shares if this Warrant had been exercised immediately before such reorganization, merger or consolidation.

2.4 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional share interest by paying Holder an amount in cash computed by multiplying the fractional interest by the fair market value of a full Share.

2.5 Certificate as to Adjustments. Upon each adjustment of the Exercise Price, the Company shall promptly notify Holder in writing, and, at the Company's expense, promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer or other officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall furnish Holder a certificate setting forth the Exercise Price in effect upon the date thereof and the series of adjustments leading to such Exercise Price.

ARTICLE 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Notice of Certain Events. If the Company proposes at any time (a) to declare any dividend or distribution upon any of its stock, whether in cash, property, stock, or other securities and

whether or not a regular cash dividend; (b) to effect any reclassification or recapitalization of any of its stock; or (c) to merge or consolidate with or into any other corporation, or sell, lease, license, or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, then, in connection with each such event, the Company shall give Holder: (1) at least twenty (20) days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of common stock will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) above; and (2) in the case of the matters referred to in (b) and (c) above at least twenty (20) days prior written notice of the date when the same will take place (and specifying the date on which the holders of common stock will be entitled to exchange their common stock for securities or other property deliverable upon the occurrence of such event).

3.2 No Shareholder Rights or Liabilities. Except as provided in this Warrant, the Holder will not have any rights as a stockholder of the Company until the exercise of this Warrant. Absent an affirmative action by the Holder to purchase the Shares, the Holder shall not have any liability as a stockholder of the Company.

3.3 Closing of Books. The Company will at no time close its transfer books against the transfer of this Warrant or of any Shares issued or issuable upon the exercise of this Warrant in any manner which interferes with the timely exercise of this Warrant.

3.4 Corporate Power. The Company has all the requisite corporate power and authority to issue this Warrant and to carry out and perform its obligations hereunder.

3.5 Authorization. All corporate action on the part of the Company, its directors and stockholders necessary for the authorization, execution, delivery and performance by the Company of this Warrant has been taken. This Warrant is a valid and binding obligation of the Company, enforceable in accordance with its terms.

3.6 Offering. Subject in part to the truth and accuracy of Holder's representations set forth in Section 4 hereof, the offer, issuance and sale of this Warrant is, and the issuance of Shares upon exercise or conversion of this Warrant and the issuance of the Company's common stock upon conversion of the Shares will be exempt from the registration requirements of the Securities Act, and are exempt from the qualification requirements of any applicable state securities laws; and neither the Company nor anyone acting on its behalf will take any action hereafter that would cause the loss of such exemptions.

3.7 Stock Issuance. Upon the exercise or conversion of this Warrant, the Company will use its best efforts to cause stock certificates representing the Shares purchased pursuant to the exercise or conversion thereof to be issued in the names of Holder, its nominees or assignees, as appropriate at the time of such exercise or conversion. Upon conversion of the Shares into the Company's common stock, the Company will issue the common stock in the names of Holder, its nominees or assignees, as appropriate.

3.8 Certificates and Bylaws. The Company has provided Holder with true and complete copies of the Company's Certificate of Incorporation, Bylaws and each Certificate of Designation or other charter document setting forth any rights, preferences and privileges of Company's capital stock, each as amended and in effect on the date of issuance of this Warrant.

3.9 Series A Preferred Stock. The Shares issuable upon the exercise or conversion of this Warrant will represent less than ten (10%) percent of the Company's authorized and issued Series A Preferred Stock.

ARTICLE 4. REPRESENTATIONS OF THE HOLDER. The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by the Holder will be acquired for investment for the Holder's account, not as a

nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that the Holder has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. The Holder has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. The Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to the Holder or to which the Holder has access.

4.3 Investment Experience. The Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. The Holder has experience as an investor in securities of companies in the development stage and acknowledges that the Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that the Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables the Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. The Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. The Holder understands that this Warrant and the Shares issuable upon exercise or conversion hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. The Holder understands that this Warrant and the Shares issued upon any exercise or conversion hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available.

ARTICLE 5. MISCELLANEOUS.

5.1 Term. This Warrant is exercisable in whole or in part at any time and from time to time on or before the earlier of (i) 5:00 pm Pacific Time on the seventh anniversary of the Issue Date or (ii) the fifth anniversary of the consummation of the Company's initial public offering.

5.2 Legends. This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AND PURSUANT TO THE PROVISIONS OF ARTICLE 5 BELOW, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

5.3 "Market Stand off" Agreement. Holder hereby agrees that it will not, without the prior written consent of the Company, during the period commencing on the date of the final prospectus relating to the initial public offering of the capital stock of the Company and ending on the date specified by the Company (such period not to exceed one hundred eighty (180) days) (i) lend; offer; pledge; sell;

contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable, directly or indirectly, for common stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of common stock or other securities, in cash, or otherwise.

5.4 Transfers. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). Subject to the foregoing, this Warrant and the Shares issuable upon exercise of this Warrant shall be freely transferable.

5.5 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may (or on the first business day after transmission by facsimile) be, in writing by the Company or such Holder from time to time. Effective upon receipt of the fully executed Warrant, all notices to the Holder shall be addressed as set forth on the signature page hereto until the Company receives notice of a change of address in connection with a transfer or otherwise. Notice to the Company shall be addressed as set forth on the signature page hereto until the Holder receives notice of a change in address.

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Counterparts. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement.

5.8 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

[Remainder of page intentionally left blank; signature page follows]

"COMPANY"

PACIRA, INC.

By: _____

Name: _____
(Print)

Title:

Address:

Pacira, Inc.
10450 Science Center Drive
San Diego, CA 92121

"HOLDER"

[ ]

By: _____

Name: _____
(Print)

Title: _____

Address:

HCP, Inc.
3760 Kilroy Airport Way, Suite 300
Long Beach, CA 90806-2473
Attention: Legal Department

APPENDIX 1

NOTICE OF EXERCISE

1. Holder elects to purchase _____ of the Shares pursuant to the terms of the attached Warrant, and tenders payment of the purchase price of the shares in full.

   [or]

1. Holder elects to convert the attached Warrant into Shares in the manner specified in the Warrant. This conversion is exercised for _____ of the Shares covered by the Warrant.

[Strike above paragraph that does not apply.]

2. Please issue a certificate or certificates representing the shares in the name specified below:

_____
(Holder's Name)

_____

_____
(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Article 4 of the Warrant as the date hereof.

HOLDER:

_____

By: _____

Name: _____

Title: _____

(Date): _____

Exhibit 10.34

FORM OF WARRANT

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER SUCH ACT OR UNLESS SOLD PURSUANT TO RULE 144 UNDER SUCH ACT.

Warrant No.__ Date of Issuance: January 22, 2009

WARRANT

To purchase common stock of

PACIRA, INC.

Expiring 5:00 p.m., Pacific Standard Time, on January 21, 2014

THIS IS TO CERTIFY THAT, for value received as consideration for a Convertible Promissory Note (the "**Note**"), _____(the "**Holder**"), is entitled hereunder to purchase from Pacira, Inc., a Delaware corporation (the " **Company**"), at any time after the date hereof, but before 5:00 p.m., Pacific Standard Time, on January 21, 2014 (the "**Expiration Time**"), _____ shares of the Company's Common Stock at a cash price per share of $0.25 (collectively, the "**Exercise Price**"). To the extent not exercised before the Expiration Time, the Holder's rights under this Warrant will become null and void at the Expiration Time. Capitalized terms used and not defined in f this Warrant shall have the meaning set forth in the Securities Purchase Agreement dated as of January 22, 2009 among the Company, the Holder and certain investors identified therein (the " **Purchase Agreement**").

ARTICLE 1
EXERCISE OF WARRANT

1.1 Method of Exercise. To exercise this Warrant in whole or in part, the Holder shall deliver to the Company, at the Company's principal executive offices, (a) this Warrant, (b) a written notice, in substantially the form of the Exercise Notice attached as Exhibit A hereto, of the Holder's election to exercise this Warrant, which notice shall specify the number of shares of Common Stock to which such exercise relates, and (c) payment of the Exercise Price with respect to such shares of Common Stock. Payment of the Exercise Price may be made, at the option of the Holder, by money order, certified or bank cashier's check or wire transfer.

As promptly as practicable after receipt of the items referred to above, the Company shall execute and deliver or cause to be executed and delivered, in accordance with the Exercise

Notice, a certificate or certificates representing the aggregate number of shares of Common Stock specified in the Exercise Notice. The share certificates so delivered shall be in such denominations as may be specified in the Exercise Notice or, if such notice does not specify denominations, shall be in the amount of the number of shares of Common Stock for which the Warrant is being exercised, and shall be issued in the name of the Holder. Such certificate or certificates shall be deemed to have been issued, and the Holder shall be deemed for all purposes to have become a holder of record of such shares of Common Stock, as of the date the Exercise Notice and Exercise Price have been received by the Company. If this Warrant shall have been exercised only in part, at the time of delivery of the certificate or certificates the Company shall deliver to the Holder a new Warrant evidencing the rights to purchase the remaining shares of Common Stock called for by this Warrant, which new Warrant shall in all other respects be identical in form to this Warrant or, at the election of the Company, appropriate notation may be made on this Warrant, which shall then be returned to the Holder. The Company shall pay all expenses, taxes (if any) and other charges payable in connection with the preparation, issuance and delivery of any such share certificates and new Warrant.

1.2 Warrant Shares to Be Fully Paid and Non-assessable. All shares of Common Stock issued upon the exercise of this Warrant shall be validly issued, fully paid and non-assessable and free from all taxes, liens and charges with respect to the issue thereof.

1.3 No Fractional Shares or Units to Be Issued. The Company shall not be required to issue fractions of shares upon exercise of this Warrant. If any fraction of a share would be issuable on the exercise of this Warrant, except for the provisions of this Section 1.3, the Company will (a) if the fraction of a share otherwise issuable is equal to or less than one-half, round down and issue to the Holder only the largest whole number of shares to which the Holder is otherwise entitled, or (b) if the fraction of a share otherwise issuable is greater than one-half, round up and issue to the Holder one additional share in addition to the largest whole number of shares to which the Holder is otherwise entitled.

1.4 Legend. Each certificate for shares of Common Stock issued upon exercise of this Warrant shall bear the following legend, unless at the time of exercise such shares are registered under the Securities Act of 1933, as amended (the " **Securities Act**"), and qualified under applicable state securities laws:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER SUCH ACT OR UNLESS SOLD PURSUANT TO RULE 144 UNDER SUCH ACT."

Any certificate issued at any time in exchange or substitution for any certificate bearing such legend (except a new certificate issued upon completion of a public distribution pursuant to a registration statement under the Securities Act) shall also bear such legend unless, in the opinion of counsel selected by the Holder of such certificate and reasonably acceptable to the Company, the securities represented thereby are no longer subject to restrictions on resale under the Securities Act.

1.5 Termination of Warrant. Notwithstanding anything to the contrary in this Warrant, provided that the Company has provided the Holder with at lease fifteen (15) days prior written notice, this Warrant shall terminate and be of no further force or effect on the earliest to occur of the following occasions: (a) the closing of the issuance and sale of common stock in the Company's first underwritten public offering pursuant to an effective registration statement under the Securities Act, or (b) the completion of a Corporate Transaction.

ARTICLE 2
TRANSFER, EXCHANGE AND REPLACEMENT OF WARRANTS

2.1 Loss, Theft, Destruction or Mutilation of Warrants. Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of the Warrant and, in the case of any such loss, theft or destruction, upon receipt of indemnity or security reasonably satisfactory to the Company or, in the case of any such mutilation, upon surrender and cancellation of such Warrant, the Company will make and deliver, in lieu of such lost, stolen, destroyed or mutilated Warrant, a new Warrant of like tenor and representing the right to purchase the same aggregate number of shares of Common Stock as provided for in such lost, stolen, destroyed or mutilated Warrant.

2.2 Expenses of Delivery of Warrants. The Company shall pay all expenses, taxes (other than transfer taxes) and other charges payable in connection with the preparation, issuance and delivery of this Warrant and shares of Common Stock issuable upon exercise hereof.

2.3 Transfer Restrictions.

(a) This Warrant and all rights hereunder are not transferable.

(b) Regardless of whether the offering and sale of shares of Common Stock issuable upon exercise hereof have been registered under the Securities Act or have been registered or qualified under the securities laws of any state, the Company, at its discretion, may impose restrictions upon the sale, pledge or other transfer of such shares (including the placement of appropriate legends on share certificates or the imposition of stop-transfer instructions) if, in the judgment of the Company, such restrictions are necessary or desirable in order to achieve compliance with the Securities Act, the securities laws of any state or any other law.

(c) The Holder hereby agrees that it will not, upon the request of the Company or of the managing underwriter, during the period commencing on the date of the final prospectus relating to the Company's initial public offering and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180)

days or such longer period as may be required to comply with FINRA rules) (a) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of the Company's Common Stock or other equity securities held immediately prior to the effectiveness of the registration statement for such offering, or (b) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Company's Common Stock acquired through the exercise of this Warrant, whether any such transaction described in clause (a) or (b) above is to be settled by delivery of securities, in cash or otherwise. The foregoing provisions of this Section 2.3(c) shall apply only to the Company's initial public offering, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement and shall only be applicable to the Holder if all officers and directors and greater than one percent (1%) stockholders of the Company enter into similar agreements. The underwriters in connection with the Company's initial public offering are intended third-party beneficiaries of this Section 2.3(c) and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto. The Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in the Company's initial public offering that are consistent with this Section 2.3(c) that are necessary to give further effect thereto. To enforce the provisions of this Section 2.3(c), the Company may impose stop-transfer instructions with respect to the shares of Common Stock acquired pursuant to this Warrant until the end of the applicable stand-off period.

(e) If the sale of shares of Common Stock issuable hereunder is not registered under the Securities Act, or qualified under applicable state securities laws, but an exemption is available which requires an investment representation or other representation, the Holder shall represent and agree at the time of exercise that the shares being acquired upon exercising this Warrant are being acquired for investment, and not with a view to the sale or distribution thereof, and shall make such other representations as are deemed necessary or appropriate by the Company and its counsel.

(f) Any determination by the Company and its counsel in connection with any of the matters set forth in this Section 2.3 shall be conclusive and binding on the Holder and all other persons.

2.4 Legality of Initial Issuance. Notwithstanding anything to the contrary in this Warrant, no shares of Common Stock shall be issued upon the exercise of this Warrant unless and until the Company has determined that:

(a) The Company and the Holder have taken all actions required to register the shares under the Securities Act or to perfect an exemption from the registration requirements thereof;

(b) Any applicable listing requirement of any stock exchange or other securities market on which shares of Common Stock are listed has been satisfied; and

(c) Any other applicable provision of state or federal law has been satisfied.

ARTICLE 3
MISCELLANEOUS

4.1 Notice. All notices, requests or other communications that may be or are required to be given, served or sent by any party pursuant to this Warrant will be in writing, will reference this Warrant and shall be mailed by first class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery, as follows: (a) if to the Company, to Pacira, Inc., 5 Sylvan Way, Parsippany, NJ 07054, Attention: Chief Financial Officer, Facsimile (760) 454-2799, with a copy to Wilmer Cutler Pickering Hale and Dorr LLP, 1117 California Avenue, Palo Alto, CA 94304, Attention: Curtis L. Mo, Esq., Facsimile: (650) 858-6100, and (b) if to the Holder, at the address set forth for the Holder in the Note, or at such other address or addresses as shall have been furnished in writing by such party to the others. Each notice or other communication that is mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is delivered to the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

4.2 Amendments and Waivers. Any term of this Warrant may be amended and the observance of any term of this Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the Holder.

4.3 Applicable Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of laws provisions.

4.4 Entire Agreement. This Warrant, the Purchase Agreement and the Note constitute the entire contract between the parties hereto with regard to the subject matter hereof. They supersede any other agreements, representations or understandings (whether oral or written and whether express or implied) which relate to the subject matter hereof.

4.5 Successors and Assigns. The terms and provisions of this Warrant shall inure to the benefit of, and be binding upon, the Company and the Holder and their respective successors and permitted assigns.

4.6 No Rights as Member or Stockholder. Until the exercise of this Warrant, the Holder shall not, by virtue hereof, have or exercise any rights of a member or stockholder of the Company, either at law or in equity, and the rights of the Holder are limited to those expressed in this Warrant.

4.7 Headings. The headings of this Warrant have been inserted as a matter of convenience and shall not affect the construction hereof.

4.9 Interpretation. In the event any claim is made by any party hereto relating to any conflict, omission or ambiguity in this Warrant, no presumption or burden of proof or persuasion shall be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular party or that party's counsel.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed and issued by its duly authorized representative on the date first above written.

PACIRA, INC.

By: _____

Dave Stack
President and Chief Executive Officer

SIGNATURE PAGE TO WARRANT

The undersigned Holder agrees to be bound by the terms of the Warrant executed by the Company in favor of the undersigned Holder, and agrees to all of the terms thereof.

[NAME OF HOLDER]

By: _____

Name: _____

Title: _____

SIGNATURE PAGE TO WARRANT

EXHIBIT A

EXERCISE NOTICE

(To be executed for exercise of the Warrant)

To: Pacira, Inc.

The undersigned hereby irrevocably elects to exercise the right of purchase represented by the attached Warrant for, and to purchase thereunder, _____ shares of Common Stock, as provided for therein, and tenders herewith payment of the Exercise Price in full in the form of certified or bank cashier's check or wire transfer in the amount of $ _____.

The undersigned hereby certifies that all of the representations and warranties contained in the Purchase Agreement and the attached Warrant are true and correct as of the date set forth below and that the undersigned has complied and will continue to comply with all of the covenants, agreements and obligations contained in the Purchase Agreement and the attached Warrant.

Please issue a certificate for such shares of Common Stock in the name of the Holder.

If the number of shares of Common Stock shall not be all the shares issuable upon exercise of the attached Warrant, a new Warrant is to be issued in the name of the Holder for the balance remaining of such shares less any fraction of a share of Common Stock paid in cash.

Dated: _____

_____

Name of the Holder (must conform precisely to the name specified on the face of the Warrant)

_____

Signature of authorized representative of the Holder

_____

Print or type name of authorized representative

Federal Identification Number of the Holder: _____

Address of the Holder:

_____

_____

Exhibit 21.1

Subsidiaries

1. Pacira Pharmaceuticals, Inc., a California corporation
2. Pacira Limited

Exhibit 23.1

Consent of Independent
Registered Public Accounting Firm

We consent to the inclusion in this Registration Statement on Form S-1 of Pacira Pharmaceuticals, Inc. of our report, which includes an explanatory paragraph relating to Pacira Pharmaceuticals, Inc.'s ability to continue as a going concern, dated November 1, 2010, on our audits of the consolidated financial statements of Pacira Pharmaceuticals, Inc. as of December 31, 2009 and 2008, and for each of the three years in the period ended December 31, 2009. We also consent to the references to our firm under the captions "Experts" and "Selected Consolidated Financial Data."

/s/ J.H. Cohn LLP

Roseland, New Jersey
November 1, 2010