FORM 10-Q

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

Impax Laboratories, Inc.

For the quarterly period ended June 30, 2016

Commission file number 001-34263

Delaware

(State or other jurisdiction of incorporation or organization)

65-0403311

(I.R.S. Employer Identification No.)

30831 Huntwood Avenue, Hayward, CA

(Address of principal executive offices)

94544

(Zip Code)

(510) 240-6000

(Registrant’s telephone number, including area code)

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

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

Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes ☒ No ☐

Indicate by check mark 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 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒ Accelerated filer ☐

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

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

Yes ☐ No ☒

As of August 4, 2016, there were 73,859,323 shares of the registrant’s common stock outstanding.
PART I - FINANCIAL INFORMATION

Item 1. Financial Statements.
- Consolidated Balance Sheets as of June 30, 2016 and December 31, 2015
- Consolidated Statements of Operations for the three and six months ended June 30, 2016 and 2015
- Consolidated Statements of Comprehensive Loss for the three and six months ended June 30, 2016 and 2015
- Consolidated Statements of Cash Flows for the six months ended June 30, 2016 and 2015
- Notes to Interim Consolidated Financial Statements


Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Item 4. Controls and Procedures.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings.
Item 1A. Risk Factors.
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.
Item 3. Defaults Upon Senior Securities.
Item 4. Mine Safety Disclosures.
Item 5. Other Information.

SIGNATURES

EXHIBIT INDEX
## PART I - FINANCIAL INFORMATION

### Item 1. Financial Statements.

**IMPAX LABORATORIES, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(Unaudited; In thousands, except share and per share data)

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$366,846</td>
<td>$340,351</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>237,454</td>
<td>324,451</td>
</tr>
<tr>
<td>Inventory, net</td>
<td>148,079</td>
<td>125,582</td>
</tr>
<tr>
<td>Prepaid expenses and other current assets</td>
<td>24,339</td>
<td>31,689</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>776,718</td>
<td>822,073</td>
</tr>
<tr>
<td>Property, plant and equipment, net</td>
<td>223,475</td>
<td>214,156</td>
</tr>
<tr>
<td>Intangible assets, net</td>
<td>581,791</td>
<td>602,020</td>
</tr>
<tr>
<td>Goodwill</td>
<td>208,382</td>
<td>210,166</td>
</tr>
<tr>
<td>Deferred income taxes</td>
<td>597</td>
<td>315</td>
</tr>
<tr>
<td>Other non-current assets</td>
<td>58,973</td>
<td>73,757</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$1,849,936</td>
<td>$1,922,487</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND STOCKHOLDERS’ EQUITY</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$50,518</td>
<td>$56,325</td>
</tr>
<tr>
<td>Accrued expenses</td>
<td>201,810</td>
<td>204,711</td>
</tr>
<tr>
<td>Accrued profit sharing and royalty expenses</td>
<td>13,620</td>
<td>65,725</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>265,948</td>
<td>326,761</td>
</tr>
<tr>
<td>Long-term debt, net</td>
<td>435,265</td>
<td>424,595</td>
</tr>
<tr>
<td>Deferred income taxes</td>
<td>38,172</td>
<td>72,770</td>
</tr>
<tr>
<td>Other non-current liabilities</td>
<td>37,161</td>
<td>35,952</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td>776,546</td>
<td>860,078</td>
</tr>
</tbody>
</table>

Commitments and contingencies (Notes 20 and 21)

Stockholders’ equity:

- Preferred stock, $0.01 par value, 2,000,000 shares authorized; No shares issued or outstanding at June 30, 2016 and December 31, 2015 | — | — |
- Common stock, $0.01 par value, 150,000,000 shares authorized; 74,106,376 issued and 73,862,647 outstanding shares at June 30, 2016; 72,926,205 issued and 72,682,476 outstanding shares at December 31, 2015 | 741 | 729 |
- Treasury stock at cost: 243,729 shares at June 30, 2016 and December 31, 2015 | (2,157) | (2,157) |
- Additional paid-in capital | 525,182 | 504,077 |
- Retained earnings | 557,114 | 570,223 |
- Accumulated other comprehensive loss | (7,490) | (10,463) |
| **Total stockholders’ equity** | 1,073,390 | 1,062,409 |

**Total liabilities and stockholders' equity**  
$1,849,936 | $1,922,487

The accompanying notes are an integral part of these unaudited interim consolidated financial statements.
## IMPAX LABORATORIES, INC.
**CONSOLIDATED STATEMENTS OF OPERATIONS**
(Unaudited; In thousands, except share and per share data)

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Revenues:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impax Generics, net</td>
<td>$121,695</td>
<td>$174,679</td>
</tr>
<tr>
<td>Impax Specialty Pharma, net</td>
<td>50,895</td>
<td>39,503</td>
</tr>
<tr>
<td>Total revenues</td>
<td>172,590</td>
<td>214,182</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>99,606</td>
<td>129,331</td>
</tr>
<tr>
<td>Gross profit</td>
<td>72,984</td>
<td>84,851</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selling, general and admin</td>
<td>44,908</td>
<td>48,309</td>
</tr>
<tr>
<td>Research and development</td>
<td>21,746</td>
<td>16,995</td>
</tr>
<tr>
<td>Patent litigation</td>
<td>1,929</td>
<td>1,494</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>68,583</td>
<td>66,798</td>
</tr>
<tr>
<td>Income from operations</td>
<td>4,401</td>
<td>18,053</td>
</tr>
<tr>
<td>Other income (expense):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest expense</td>
<td>(8,454)</td>
<td>(6,953)</td>
</tr>
<tr>
<td>Interest income</td>
<td>340</td>
<td>294</td>
</tr>
<tr>
<td>Reserve for Turing receivable</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Loss on debt extinguishment</td>
<td>—</td>
<td>(16,903)</td>
</tr>
<tr>
<td>Other, net</td>
<td>(237)</td>
<td>961</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(3,950)</td>
<td>(4,548)</td>
</tr>
<tr>
<td>Benefit from income taxes</td>
<td>(1,249)</td>
<td>(2,696)</td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (2,701)</td>
<td>$ (1,852)</td>
</tr>
<tr>
<td>Net loss per common share:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$ (0.04)</td>
<td>$ (0.03)</td>
</tr>
<tr>
<td>Diluted</td>
<td>$ (0.04)</td>
<td>$ (0.03)</td>
</tr>
<tr>
<td>Weighted-average common shares outstanding:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>71,100,123</td>
<td>69,338,789</td>
</tr>
<tr>
<td>Diluted</td>
<td>71,100,123</td>
<td>69,338,789</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these unaudited interim consolidated financial statements.
### IMPAX LABORATORIES, INC.  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
(Unaudited; In thousands)

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th></th>
<th>Six Months Ended June 30,</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>$ (2,701)</td>
<td>$ (1,852)</td>
<td>$ (13,109)</td>
<td>$ (8,185)</td>
</tr>
<tr>
<td><strong>Other comprehensive loss component:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Currency translation adjustments</td>
<td>(70)</td>
<td>684</td>
<td>2,973</td>
<td>3,584</td>
</tr>
<tr>
<td><strong>Comprehensive loss</strong></td>
<td>$ (2,771)</td>
<td>$ (1,168)</td>
<td>$ (10,136)</td>
<td>$ (4,601)</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these unaudited interim consolidated financial statements.
### IMPAX LABORATORIES, INC.
#### CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED; IN THOUSANDS)

#### Six Months Ended June 30,

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash flows from operating activities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$(13,109)</td>
<td>$(8,185)</td>
</tr>
<tr>
<td>Adjustments to reconcile net loss to net cash provided by (used in) operating activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>36,419</td>
<td>29,786</td>
</tr>
<tr>
<td>Non-cash interest expense</td>
<td>10,714</td>
<td>928</td>
</tr>
<tr>
<td>Share-based compensation expense</td>
<td>15,662</td>
<td>13,559</td>
</tr>
<tr>
<td>Tax benefit from employees’ exercises of stock options and vestings of restricted stock awards</td>
<td>(540)</td>
<td>(4,319)</td>
</tr>
<tr>
<td>Deferred income taxes, net and uncertain tax positions</td>
<td>(21,294)</td>
<td>(9,464)</td>
</tr>
<tr>
<td>Intangible asset impairment charges</td>
<td>2,491</td>
<td>—</td>
</tr>
<tr>
<td>Accrued profit sharing and royalty expenses, net of payments</td>
<td>(52,105)</td>
<td>20,236</td>
</tr>
<tr>
<td>Reserve for Turing receivable</td>
<td>48,043</td>
<td>—</td>
</tr>
<tr>
<td>Loss on debt extinguishment</td>
<td>—</td>
<td>16,903</td>
</tr>
<tr>
<td>Provision for inventory reserves</td>
<td>9,300</td>
<td>(6,597)</td>
</tr>
<tr>
<td>Other</td>
<td>(144)</td>
<td>(535)</td>
</tr>
<tr>
<td><strong>Changes in certain assets and liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>38,954</td>
<td>(37,638)</td>
</tr>
<tr>
<td>Inventory</td>
<td>(33,588)</td>
<td>(6,146)</td>
</tr>
<tr>
<td>Prepaid expenses and other assets</td>
<td>(5,185)</td>
<td>(19,774)</td>
</tr>
<tr>
<td>Accounts payable and accrued expenses</td>
<td>(13,324)</td>
<td>(20,108)</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>1,489</td>
<td>(1,231)</td>
</tr>
<tr>
<td><strong>Net cash provided by (used in) operating activities</strong></td>
<td>23,783</td>
<td>(32,585)</td>
</tr>
</tbody>
</table>

| **Cash flows from investing activities:** |           |           |
| Payment for business acquisition, net of cash acquired | —         | (697,183) |
| Proceeds from sales of intangible assets acquired and immediately divested | —         | 4,000     |
| Purchases of property, plant and equipment | (20,512)  | (8,482)   |
| Proceeds from sales of property, plant and equipment | 1,346     | —         |
| Payments for licensing agreements | (3,500)   | (5,550)   |
| Proceeds from repayment of Tolmar loan | 15,000    | —         |
| Maturities of short-term investments | —         | 200,064   |
| **Net cash used in investing activities** | (7,666)   | (507,151) |

---

6
**Cash flows from financing activities:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Period 1</th>
<th>Period 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from sale of convertible notes</td>
<td>—</td>
<td>600,000</td>
</tr>
<tr>
<td>Proceeds from issuance of term loan</td>
<td>—</td>
<td>435,000</td>
</tr>
<tr>
<td>Repayment of term loan</td>
<td>—</td>
<td>(435,000)</td>
</tr>
<tr>
<td>Payment of deferred financing fees</td>
<td>—</td>
<td>(36,440)</td>
</tr>
<tr>
<td>Purchase of bond hedge derivative asset</td>
<td>—</td>
<td>(147,000)</td>
</tr>
<tr>
<td>Proceeds from sale of warrants</td>
<td>—</td>
<td>88,320</td>
</tr>
<tr>
<td>Tax benefit from employees’ exercises of stock options and vestings of</td>
<td>540</td>
<td>4,319</td>
</tr>
<tr>
<td>restricted stock awards</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from exercises of stock options and ESPP</td>
<td>9,178</td>
<td>5,383</td>
</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>9,718</td>
<td>514,582</td>
</tr>
</tbody>
</table>

Effect of exchange rate changes on cash and cash equivalents 660 572

Net increase (decrease) in cash and cash equivalents 26,495 (24,582)

Cash and cash equivalents, beginning of period 340,351 214,873

Cash and cash equivalents, end of period $366,846 $190,291

Supplemental disclosure of cash flow information:

<table>
<thead>
<tr>
<th>Description</th>
<th>Period 1</th>
<th>Period 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for interest</td>
<td>6,012</td>
<td>9,828</td>
</tr>
<tr>
<td>Cash paid for income taxes</td>
<td>22,449</td>
<td>24,422</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these unaudited interim consolidated financial statements.
1. DESCRIPTION OF BUSINESS

Impax Laboratories, Inc. (“Impax” or the “Company”) is a specialty pharmaceutical company that focuses on developing, manufacturing, marketing and distributing generic and branded pharmaceutical products. The Company has two reportable segments, referred to as “Impax Generics” and “Impax Specialty Pharma.” The Impax Generics division focuses on a broad range of therapeutic areas, including products having technically challenging drug-delivery mechanisms or unique product formulations. In addition to developing solid oral dosage products, the Impax Generics division’s portfolio includes alternative dosage form products, primarily through alliance and collaboration agreements with third parties. The Company’s Impax Specialty Pharma division is focused on the development and promotion, through the Company’s specialty sales force, of proprietary branded pharmaceutical products for the treatment of central nervous system (“CNS”) disorders and other select specialty segments.

Tower Acquisition

On March 9, 2015, Impax completed its acquisition of Tower Holdings, Inc. (“Tower”), including its operating subsidiaries CorePharma LLC (“CorePharma”) and Amedra Pharmaceuticals LLC (“Amedra Pharmaceuticals”), and Lineage Therapeutics Inc. (“Lineage”) for a purchase price of $691.3 million, net of $41.5 million of cash acquired and including the repayment of indebtedness of Tower and Lineage and post-closing working capital adjustments (collectively, the “Tower acquisition”). The privately-held companies specialized in the development, manufacture and commercialization of complex generic and branded pharmaceutical products. For additional information on the acquisition and the related financing of the acquisition, refer to “Note 2. Business Acquisition” and “Note 13. Debt.”

Operating and Reporting Structure

The Company currently operates in two divisions: the Impax Generics division and the Impax Specialty Pharma division. The Impax Generics division includes the Company’s legacy Global Pharmaceuticals business as well as the acquired CorePharma and Lineage businesses from the Tower acquisition. The Impax Specialty Pharma division includes the legacy Impax Pharmaceuticals business as well as the acquired Amedra Pharmaceuticals business from the Tower acquisition.

Impax Generics develops, manufactures, sells, and distributes generic pharmaceutical products primarily through the following four sales channels: the “Impax Generics” sales channel, for generic pharmaceutical prescription products the Company sells directly to wholesalers, large retail drug chains, and others; the “Private Label” sales channel, for generic pharmaceutical over-the-counter (“OTC”) and prescription products the Company sells to unrelated third-party customers who, in turn, sell the product to third parties under their own label; the “Rx Partner” sales channel, for generic prescription products sold through unrelated third-party pharmaceutical entities under their own label pursuant to alliance agreements; and the “OTC Partner” sales channel, for generic pharmaceutical OTC products sold through unrelated third-party pharmaceutical entities under their own labels pursuant to alliance and supply agreements. Revenues from the “Impax Generics” sales channel and the “Private Label” sales channel are reported under the caption “Impax Generics sales, net” in “Note 23. Supplementary Financial Information.” Revenues from the “OTC Partner” sales channel are reported under the caption “Other Revenues” in “Note 23. Supplementary Financial Information.”

Impax Specialty Pharma is engaged in the development, sale and distribution of proprietary branded pharmaceutical products that the Company believes represent improvements to already-approved pharmaceutical products addressing CNS disorders and other select specialty segments. Impax Specialty Pharma currently has one internally developed branded pharmaceutical product, Rytary® (IPX066), an extended release oral capsule formulation of carbidopa-levodopa for the treatment of Parkinson’s disease, post-encephalitic parkinsonism, and parkinsonism that may follow carbon monoxide intoxication and/or manganese intoxication, which was approved by the U.S. Food and Drug Administration (“FDA”) on January 7, 2015 and which the Company began marketing in the United States in April 2015. The Company received marketing authorization from the European Commission for NUMIENT™ (the brand name of IPX066 outside of the United States) during the fourth quarter of fiscal year 2015. In addition to Rytary®, Impax Specialty Pharma is also currently engaged in the sale and distribution of four other branded products; the more significant include Zomig® (zolmitriptan) products, indicated for the treatment of migraine headaches, under the terms of a Distribution, License, Development and Supply Agreement with AstraZeneca UK Limited (“AstraZeneca”) in the United States and in certain U.S. territories (the "AZ Agreement"), and Emverm® (mebendazole) 100 mg chewable tablets, indicated for the treatment of pinworm, whipworm, common roundworm, common hookworm, and American hookworm in single or mixed infections. Revenues from Impax-labeled branded products are reported under the caption “Impax Specialty Pharma sales, net” in “Note 23. Supplementary Financial Information.” Finally, the Company generated revenue in Impax Specialty Pharma from research and development services provided under a development and license agreement with another unrelated third-party pharmaceutical company (which was terminated by mutual agreement of the parties effective
Operating Locations

The Company owns and/or leases facilities in California, Pennsylvania, New Jersey and Taiwan, Republic of China (“R.O.C.”). In California, the Company utilizes a combination of owned and leased facilities mainly located in Hayward. The Company’s primary properties in California consist of a leased office building used as the Company’s corporate headquarters, in addition to five properties it owns, including a research and development center facility and a manufacturing facility. Additionally, the Company leases two facilities in Hayward, utilized for additional research and development, equipment storage and quality assurance support. In Pennsylvania, the Company leases facilities in Chalfont, Montgomeryville, and Horsham used for sales and marketing, finance, and administrative personnel. In addition, the Company previously owned a packaging plant in Philadelphia, PA that was closed and sold in February 2016 in conjunction with the Company's restructuring of its packaging and distribution operations announced in June 2015 and discussed below in "Note 17. Restructurings.” In New Jersey, the Company leases manufacturing, packaging, research and development and warehousing facilities in Middlesex, New Jersey and office space in Bridgewater, New Jersey. Outside the United States, in Taiwan, R.O.C., the Company owns a manufacturing facility.

2. BUSINESS ACQUISITION

On March 9, 2015, the Company completed the Tower acquisition, which included the acquisition of all of the outstanding shares of common stock of Tower and Lineage, pursuant to the Stock Purchase Agreement dated as of October 8, 2014, by and among the Company, Tower, Lineage, Roundtable Healthcare Partners II, L.P., Roundtable Healthcare Investors II, L.P., and the other parties thereto, including holders of certain options and warrants, to acquire the common stock of Tower and Lineage. In connection with the Tower acquisition, all of the options and warrants of Tower and Lineage that were outstanding at the time of the acquisition were cancelled. The total consideration paid for Tower and Lineage was $691.3 million, net of $41.5 million of cash acquired and including the repayment of indebtedness of Tower and Lineage. In connection with the Tower acquisition, all of the options and warrants of Tower and Lineage that were outstanding at the time of the acquisition were cancelled. The total consideration paid for Tower and Lineage was $691.3 million, net of $41.5 million of cash acquired and including the repayment of indebtedness of Tower and Lineage and post-closing working capital adjustments. The Company incurred total acquisition-related costs of $10.9 million, of which $6.8 million were incurred during the six months ended June 30, 2015 and included in selling, general and administrative expenses in the Company's consolidated statement of operations for that period. In connection with the Tower acquisition, the Company recorded an accrual for severance and related termination costs. As of June 30, 2016, the Company had paid all severance and related termination costs related to the Tower acquisition.

The Tower acquisition allows the Company to expand its commercialized generic and branded product portfolios. The Company has also leveraged its sales and marketing organization to promote the marketed products acquired.

Consideration

The Company has accounted for the Tower acquisition as a business combination under the acquisition method of accounting. The Company has allocated the purchase price for the transaction based upon the fair value of net assets acquired and liabilities assumed at the date of acquisition.
Recognition and Measurement of Assets Acquired and Liabilities Assumed at Fair Value

The following tables summarize the final fair values of the tangible and identifiable intangible assets acquired and liabilities assumed in the transaction at the acquisition date, net of cash acquired of $41.5 million (in thousands):

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts receivable (1)</td>
<td>$56,851</td>
</tr>
<tr>
<td>Inventory</td>
<td>31,259</td>
</tr>
<tr>
<td>Income tax receivable and other prepaid expenses</td>
<td>2,407</td>
</tr>
<tr>
<td>Property, plant and equipment</td>
<td>27,540</td>
</tr>
<tr>
<td>Intangible assets</td>
<td>632,600</td>
</tr>
<tr>
<td>Intangible assets held for sale</td>
<td>4,000</td>
</tr>
<tr>
<td>Goodwill</td>
<td>180,808</td>
</tr>
<tr>
<td>Deferred income taxes</td>
<td>37,041</td>
</tr>
<tr>
<td>Other non-current assets</td>
<td>3,844</td>
</tr>
<tr>
<td>Total assets acquired</td>
<td>976,350</td>
</tr>
<tr>
<td>Current liabilities</td>
<td>67,706</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>210,005</td>
</tr>
<tr>
<td>Other non-current liabilities</td>
<td>7,291</td>
</tr>
<tr>
<td>Total liabilities assumed</td>
<td>285,002</td>
</tr>
<tr>
<td>Cash paid, net of cash acquired (2)</td>
<td>$691,348</td>
</tr>
</tbody>
</table>

(1) The accounts receivable acquired in the Tower acquisition had a fair value of $56.9 million, net of an allowance for doubtful accounts of $9.0 million, which represented the Company’s best estimate on March 9, 2015 (the closing date of the transaction) of the contractual cash flows not expected to be collected by the acquired companies.

(2) The initial net purchase price of $697.2 million was subject to post-closing working capital adjustments, which resulted in the return of $5.9 million to the Company during the third quarter of 2015.

Intangible Assets

The following table identifies the Company’s allocations, by category, of the Tower purchase price to the intangible assets acquired:

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated Fair Value</th>
<th>Weighted-Average Estimated Useful Life (years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currently marketed product rights</td>
<td>$381,100</td>
<td>13</td>
</tr>
<tr>
<td>Current and future royalty rights</td>
<td>80,800</td>
<td>12</td>
</tr>
<tr>
<td>In-process research and development product rights</td>
<td>170,700</td>
<td>n/a</td>
</tr>
<tr>
<td>Total intangible assets</td>
<td>$632,600</td>
<td>12</td>
</tr>
</tbody>
</table>

The estimated fair value of the in-process research and development and identifiable intangible assets was determined using the “income approach,” which is a valuation technique that provides an estimate of the fair value of an asset based on market participant expectations of the cash flows an asset would generate over its remaining useful life. Some of the more significant assumptions inherent in the development of those asset valuations include the estimated net cash flows for each year for each asset or product (including net revenues, cost of sales, research and development costs, selling and marketing costs and working capital /contributory asset charges), the appropriate discount rate to select in order to measure the risk inherent in each future cash flow stream, the assessment of each asset’s life cycle, the potential regulatory and commercial success risks, competitive trends impacting the asset and each cash flow stream, as well as other factors. The discount rates used to arrive at the present value at the acquisition date of currently marketed products was 15%. For in-process research and development, the discount rate used was 16% to reflect the internal rate of return and incremental commercial uncertainty in the cash flow projections. No assurances can be given that
the underlying assumptions used to prepare the discounted cash flow analysis will not change. For these and other reasons, actual results may vary significantly from estimated results.

**Goodwill**

The Company recorded $180.8 million of goodwill in connection with the Tower acquisition, some of which will not be tax-deductible. Goodwill of $59.7 million was assigned to the Impax Specialty Pharma segment and $121.1 million was assigned to the Impax Generics segment. Factors that contributed to the Company’s recognition of goodwill include the Company’s intent to expand its generic and branded pharmaceutical product portfolios and to acquire certain benefits from the Tower and Lineage product pipelines, in addition to the anticipated synergies that the Company expects to generate from the acquisition.

**Unaudited Pro Forma Results of Operations**

The following table reflects the unaudited pro forma combined results of operations for the six months ended June 30, 2015 (assuming the closing of the Tower acquisition occurred on January 1, 2014) (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total revenues</td>
<td>$389,715</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (6,158)</td>
</tr>
</tbody>
</table>

The pro forma results have been prepared for comparative purposes only and are not necessarily indicative of the actual results of operations had the closing of the transaction taken place on January 1, 2014. Furthermore, the pro forma results do not purport to project the future results of operations of the Company.

The unaudited pro forma information reflects primarily the following adjustments:

- Adjustments to amortization expense related to identifiable intangible assets acquired;
- Adjustments to depreciation expense related to property, plant and equipment acquired;
- Adjustments to interest expense to reflect the long-term debt held by Tower and Lineage paid out and eliminated at the closing and the Company's Senior Secured Credit Facilities with Barclays Bank PLC (described in “Note 13. Debt” below);
- Adjustments to cost of revenues related to the fair value adjustments in inventory sold, including elimination of $5 million for the six months ended June 30, 2015, respectively;
- Adjustments to selling, general and administrative expense related to severance and retention costs of $3 million incurred as part of the transaction. These costs were eliminated in the pro forma results for the six months ended June 30, 2015; and
- Adjustments to selling, general and administrative expense related to transaction costs directly attributable to the transaction include the elimination of $12 million of charges in the pro forma results for the six month period ended June 30, 2015; and
- Adjustments to reflect the elimination of $2.3 million in commitment fees related to the Company's $435 million term loan with Barclays Bank PLC (described in "Note 13. Debt" below) that were incurred during the six months ended June 30, 2015.

All of the items above were adjusted for the applicable tax impact.
3. BASIS OF PRESENTATION

Interim Financial Statements

The accompanying unaudited interim consolidated financial statements have been prepared from the books and records of the Company in accordance with accounting principles generally accepted in the United States ("U.S. GAAP") for interim financial information and Rule 10-01 of Regulation S-X promulgated by the United States Securities and Exchange Commission ("SEC"), which permit reduced disclosures for interim periods. All adjustments necessary for a fair presentation of the accompanying balance sheets and statements of operations, comprehensive loss, and cash flows have been made. Although these interim consolidated financial statements do not include all of the information and footnotes required for complete annual financial statements, management believes the disclosures are adequate to make the information presented not misleading. Unaudited interim results of operations and cash flows are not necessarily indicative of the results that may be expected for the full year. Unaudited interim consolidated financial statements and footnotes should be read in conjunction with the audited consolidated financial statements and footnotes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2015, as filed with the SEC, wherein a more complete discussion of significant accounting policies and certain other information can be found.

Principles of Consolidation

The Company's unaudited interim consolidated financial statements include the accounts of the operating parent company, Impax Laboratories, Inc., its wholly owned subsidiaries, including Impax Laboratories USA, LLC, Impax Laboratories (Taiwan), Inc., ThoRx Laboratories, Inc., Impax International Holdings, Inc., Impax Holdings, LLC, Impax Laboratories (Netherlands) C.V., Impax Laboratories (Netherlands) B.V., Impax Laboratories Ireland Limited, Lineage and Tower, including operating subsidiaries CorePharma, Amedra Pharmaceuticals, Mountain LLC and Trail Services, Inc., in addition to an equity investment in Prohealth Biotech (Taiwan), Inc. ("Prohealth"), in which the Company held a 57.54% majority ownership interest at June 30, 2016. All significant intercompany accounts and transactions have been eliminated.

Foreign Currency Translation

The Company translates the assets and liabilities of the Taiwan dollar functional currency of its majority-owned affiliate Prohealth and its wholly-owned subsidiary Impax Laboratories (Taiwan), Inc. into the U.S. dollar reporting currency using exchange rates in effect at the end of each reporting period. The revenues and expenses of these entities are translated using an average of the rates in effect during the reporting period. Gains and losses from these translations are recorded as currency translation adjustments included in the consolidated statements of comprehensive loss.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP and the rules and regulations of the SEC requires the use of estimates and assumptions, based on complex judgments considered reasonable, which affect the reported amounts of assets and liabilities and 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 most significant judgments are employed in estimates used in determining values of tangible and intangible assets, legal contingencies, tax assets and tax liabilities, fair value of share-based compensation related to equity incentive awards issued to employees and directors, and estimates used in applying the Company's revenue recognition policy, including those related to accrued chargebacks, rebates, product returns, Medicare, Medicaid, and other government rebate programs, shelf-stock adjustments, and the timing and amount of deferred and recognized revenue and deferred and amortized product manufacturing costs related to alliance and collaboration agreements. Actual results may differ from estimated results.

Reclassifications

Certain prior period amounts have been reclassified to conform to the current period presentation.
4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Company's complete Summary of Significant Accounting Policies can be found in "Item 15. Exhibits and Financial Statement Schedules - Note 4. Summary of Significant Accounting Policies" in the Company's Annual Report on Form 10-K for the year ended December 31, 2015, as filed with the SEC. Certain significant accounting policies have been repeated below.

Revenue Recognition

The Company recognizes revenue when the earnings process is complete, which under SEC Staff Accounting Bulletin No. 104, Topic No. 13, “Revenue Recognition” (“SAB 104”), is when revenue is realized or realizable and earned, there is persuasive evidence a revenue arrangement exists, delivery of goods or services has occurred, the sales price is fixed or determinable, and collectability is reasonably assured.

The Company accounts for material revenue arrangements which contain multiple deliverables in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 605-25, Revenue Recognition - Multiple-Element Arrangements (“ASC 605-25”), which addresses the determination of whether an arrangement involving multiple deliverables contains more than one unit of accounting. A delivered item within an arrangement is considered a separate unit of accounting only if both of the following criteria are met:

• the delivered item has value to the customer on a stand-alone basis; and
• if the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item is considered probable and substantially in the control of the vendor.

Under ASC 605-25, if both of the criteria above are not met, then separate accounting for the individual deliverables is not appropriate. Revenue recognition for arrangements with multiple deliverables constituting a single unit of accounting is recognized generally over the greater of the term of the arrangement or the expected period of performance, either on a straight-line basis or on a modified proportional performance method.

The Company accounts for milestones related to research and development activities in accordance with FASB ASC Topic 605-28, Revenue Recognition - Milestone Method (“ASC 605-28”). ASC 605-28 allows for the recognition of consideration, which is contingent on the achievement of a substantive milestone, in its entirety in the period the milestone is achieved. A milestone is considered to be substantive if all of the following criteria are met:

• the milestone is commensurate with either (1) the performance required to achieve the milestone or (2) the enhancement of the value of the delivered items resulting from the performance required to achieve the milestone;
• the milestone relates solely to past performance; and
• the milestone payment is reasonable relative to all of the deliverables and payment terms within the agreement.

Impax Generics revenues, net and Impax Specialty Pharma revenues, net

The Impax Generics revenues, net and Impax Specialty Pharma revenues, net include revenue recognized related to shipments of generic and branded pharmaceutical products to the Company’s customers, primarily drug wholesalers and retail chains. Gross sales revenue is recognized at the time title and risk of loss passes to the customer, which is generally when product is received by the customer. Net revenues may include deductions from the gross sales price related to estimates for chargebacks, rebates, distribution service fees, returns, shelf-stock adjustments, and other pricing adjustments. The Company records an estimate for these deductions in the same period when revenue is recognized. A description of each of these gross-to-net deductions follows.

• Chargebacks

The Company has agreements establishing contract prices for certain products with certain indirect customers, such as managed care organizations, hospitals and government agencies who purchase products from drug wholesalers. The contract prices are lower than the prices the customer would otherwise pay to the wholesaler, and the price difference is referred to as a chargeback, which generally takes the form of a credit memo issued by the Company to reduce the invoiced gross selling price charged to the wholesaler. An estimated accrued provision for chargeback deductions is recognized at the time of product shipment. The primary factors considered when estimating the provision for chargebacks are the average historical chargeback credits given, the mix of products shipped, and the amount of inventory on hand at the major drug wholesalers with whom the Company does business. The Company also monitors actual chargebacks granted and compares them to the estimated provision for chargebacks to assess the reasonableness of the chargeback reserve at each quarterly balance sheet date.

• Rebates
The Company maintains various rebate programs with its customers in an effort to maintain a competitive position in the marketplace and to promote sales and customer loyalty. The rebates generally take the form of a credit memo to reduce the invoiced gross selling price charged to a customer for products shipped. An estimated accrued provision for rebate deductions is recognized at the time of product shipment. The primary factors the Company considers when estimating the provision for rebates are the average historical experience of aggregate credits issued, the mix of products shipped and the historical relationship of rebates as a percentage of total gross product sales, the contract terms and conditions of the various rebate programs in effect at the time of shipment, and the amount of inventory on hand at the major drug wholesalers with whom the Company does business. The Company also monitors actual rebates granted and compares them to the estimated provision for rebates to assess the reasonableness of the rebate reserve at each quarterly balance sheet date.

• Distribution Service Fees

The Company pays distribution service fees to several of its wholesaler customers related to sales of its Impax Products. The wholesalers are generally obligated to provide the Company with periodic outbound sales information as well as inventory levels of the Company’s Impax Products held in their warehouses. Additionally, the wholesalers have agreed to manage the variability of their purchases and inventory levels within specified days on hand limits. An accrued provision for distribution service fees is recognized at the time products are shipped to wholesalers.

• Returns

The Company allows its customers to return product if approved by authorized personnel in writing or by telephone with the lot number and expiration date accompanying any request and if such products are returned within six months prior to or until twelve months following, the product’s expiration date. The Company estimates and recognizes an accrued provision for product returns as a percentage of gross sales based upon historical experience. The product return reserve is estimated using a historical lag period, which is the time between when the product is sold and when it is ultimately returned, and estimated return rates which may be adjusted based on various assumptions including: changes to internal policies and procedures, business practices, commercial terms with customers, and the competitive position of each product; the amount of inventory in the wholesale and retail supply chain; the introduction of new products; and changes in market sales information. The Company also considers other factors, including significant market changes which may impact future expected returns and actual product returns. The Company monitors actual returns on a quarterly basis and may record specific provisions for returns it believes are not covered by historical percentages.

• Shelf-Stock Adjustments

Based upon competitive market conditions, the Company may reduce the selling price of certain Impax Generics division products. The Company may issue a credit against the sales amount to a customer based upon their remaining inventory of the product in question, provided the customer agrees to continue to make future purchases of product from the Company. This type of customer credit is referred to as a shelf-stock adjustment, which is the difference between the initial sales price and the revised lower sales price, multiplied by an estimate of the number of product units on hand at a given date. Decreases in selling prices are discretionary decisions made by the Company in response to market conditions, including estimated launch dates of competing products and declines in market price. The Company records an estimate for shelf-stock adjustments in the period it agrees to grant such a credit memo to a customer.

• Cash Discounts

The Company offers cash discounts to its customers, generally 2% to 3% of the gross selling price, as an incentive for paying within invoice terms, which generally range from 30 to 90 days. An estimate of cash discounts is recorded in the same period when revenue is recognized.

• Medicaid and Other U.S. Government Pricing Programs

As required by law, the Company provides a rebate on drugs dispensed under the Medicaid program, Medicare Part D, TRICARE, and other U.S. government pricing programs. The Company determines its estimated government rebate accrual primarily based on historical experience of claims submitted by the various states and other jurisdictions and any new information regarding changes in the various programs which may impact the Company’s estimate of government rebates. In determining the appropriate accrual amount, the Company considers historical payment rates and processing lag for outstanding claims and payments. The Company records estimates for government rebates as a deduction from gross sales, with a corresponding adjustment to accrued liabilities.

• Rx Partner and OTC Partner

14
The Rx Partner and OTC Partner contracts include revenue recognized under alliance and collaboration agreements between the Company and unrelated third-party pharmaceutical companies. The Company has entered into these alliance agreements to develop marketing and/or distribution relationships with its partners to fully leverage its technology platform.

The Rx Partners and OTC Partners alliance agreements obligate the Company to deliver multiple goods and/or services over extended periods. Such deliverables include manufactured pharmaceutical products, exclusive and semi-exclusive marketing rights, distribution licenses, and research and development services. In exchange for these deliverables the Company receives payments from its agreement partners for product shipments and research and development services, and may also receive other payments including royalties, profit sharing payments, and upfront and periodic milestone payments. Revenue received from the alliance agreement partners for product shipments under these agreements is not subject to deductions for chargebacks, rebates, product returns, and other pricing adjustments. Royalty and profit sharing amounts the Company receives under these agreements are calculated by the respective agreement partner, with such royalty and profit share amounts generally based upon estimates of net product sales or gross profit which include estimates of deductions for chargebacks, rebates, product returns, and other adjustments the alliance agreement partners may negotiate with their respective customers. The Company records the agreement partner's adjustments to such estimated amounts in the period the agreement partner reports the amounts to the Company.

The Company applies the guidance of ASC 605-25 to the Strategic Alliance Agreement, as amended, with Teva Pharmaceuticals USA, Inc., an affiliate of Teva Pharmaceutical Industries Limited (the “Teva Agreement”). The Company looks to the underlying delivery of goods and/or services which give rise to the payment of consideration under the Teva Agreement to determine the appropriate revenue recognition. The Company initially defers consideration received as a result of research and development-related activities performed under the Teva Agreement. The Company recognizes deferred revenue on a straight-line basis over the expected period of performance for such services. Consideration received as a result of the manufacture and delivery of products under the Teva Agreement is recognized at the time title and risk of loss passes to the customer, which is generally when product is received by Teva. The Company recognizes profit share revenue in the period earned.

OTC Partner revenue is related to agreements with Pfizer, Inc., formerly Wyeth LLC (“Pfizer”) and L. Perrigo Company (“Perrigo”) with respect to the supply of over-the-counter pharmaceutical products. The OTC Partner sales channel is no longer a core area of the business, and the over-the-counter pharmaceutical products the Company sells through this sales channel are older products which are only sold to Pfizer and Perrigo. The Company is currently only required to manufacture the over-the-counter pharmaceutical products under its agreements with Pfizer and Perrigo. The Company recognizes profit share revenue in the period earned.

• Research Partner

The Research Partner contract revenue results from development agreements the Company enters into with unrelated third-party pharmaceutical companies. The development agreements generally obligate the Company to provide research and development services over multiple periods. In exchange for this service, the Company generally receives upfront payments upon signing of each development agreement and is eligible to receive contingent milestone payments, payment of which is based upon the achievement of contractually specified events. Additionally, the Company may also receive royalty payments from the sale, if any, of a successfully developed and commercialized product under one of these development agreements. The Company recognizes revenue received from the achievement of contingent research and development milestones in the period such payment is earned. Royalty revenue, if any, will be recognized as current period revenue when earned.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk are cash, cash equivalents, and accounts receivable. The Company limits its credit risk associated with cash and cash equivalents by placing its investments with high quality money market funds, corporate debt, and short-term commercial paper and in securities backed by the U.S. Government. The Company limits its credit risk with respect to accounts receivable by performing credit evaluations when deemed necessary. The Company does not require collateral to secure amounts owed to it by its customers.

In July 2015, the Company received an unsolicited offer from Turing Pharmaceuticals AG (“Turing”) to purchase the U.S. rights to Daraprim®, one of the marketed products acquired in the Tower acquisition, as well as the active pharmaceutical ingredient for the product and the finished goods inventory on hand. Pursuant to the terms of the Asset Purchase Agreement between the Company and Turing dated August 7, 2015 (the “Turing APA”), the Company also granted a limited license to sell the existing Daraprim® product under the Company’s labeler code with the Company’s trade dress. The sale closed on August 7, 2015.

In accordance with the terms of the Turing APA and in accordance with federal laws and regulations, the Company receives, and is initially responsible for processing and paying (subject to reimbursement by Turing), all chargebacks and rebates resulting from utilization by Medicaid, Medicare and other federal, state and local governmental programs, health plans and other health
During the fourth quarter of 2015, the Company began receiving invoices for chargebacks from wholesalers and rebates from various state Medicaid agencies for Daraprim® purchases made by governmental agencies during the third quarter of 2015. As a result, the Company recorded a $40.6 million receivable from Turing as of December 31, 2015, representing actual invoices received related to the third quarter of 2015 and an estimate for invoices not yet received related to the third and fourth quarters of 2015. During the first and second quarters of 2016, the Company received additional invoices related to the third and fourth quarters of 2015, respectively, and recorded an estimate for invoices not yet received related to the first and second quarters of 2016. In total, the Company recorded an additional $7.4 million receivable from Turing during the six month period ended June 30, 2016, resulting in an estimated accounts receivable balance due to the Company of $48.0 million as of June 30, 2016, with over $30.0 million of such amount representing overdue unpaid invoices due from Turing for chargebacks and Medicaid rebate liability as of June 30, 2016. The Company also recorded as of June 30, 2016 an estimated accrued liability of $24.4 million for amounts owed to wholesalers, Medicaid and other governmental agencies for Daraprim®. The difference of $23.6 million between the estimated accounts receivable due from Turing and the estimated accrued liability represents payments made by the Company on Turing's behalf during the first and second quarters of 2016. As of August 4, 2016, the amount of total payments made by the Company on Turing’s behalf was $30.2 million.

As a result of the uncertainty of the Company collecting the reimbursement amounts owed by Turing that developed since the filing of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015, the Company recorded a reserve in the amount of $48.0 million on the Company’s consolidated statement of operations in "Other income (expense)" for the three month period ended March 31, 2016, representing the full amount of the estimated receivable due from Turing as of March 31, 2016. There was no change to the reserve as of June 30, 2016.

On May 2, 2016, the Company filed suit against Turing in the United States District Court for the Southern District of New York alleging breach of the terms of the Turing APA seeking (i) a declaratory judgment that the Company may revoke Turing’s right to sell Daraprim® under the Company’s labeler code and national drug codes; (ii) specific performance to require Turing to comply with its obligations under the Turing APA for past due reports and for reports going forward; and (iii) money damages to remedy Turing’s failure to reimburse the Company for chargebacks and Medicaid rebate liability when due, currently in excess of $30 million, and for future amounts that may be due. See “Note 21. Legal and Regulatory Matters” for a description of the Company’s suit against Turing. If the Company receives an unfavorable outcome in its suit against Turing or if Turing for any reason does not, or is unable to, make its reimbursement payments to the Company, it could have a material adverse effect on the Company’s business, results of operation and financial condition.

5. RECENT ACCOUNTING PRONOUNCEMENTS

In May 2014, the FASB issued Accounting Standards Update ("ASU") 2014-09, “Revenue from Contracts with Customers” (Topic 606) regarding the accounting for and disclosures of revenue recognition, with an effective date for annual and interim periods beginning after December 15, 2016. This update provides a single comprehensive model for accounting for revenue from contracts with customers. The model requires that revenue recognized reflect the actual consideration to which the entity expects to be entitled in exchange for the goods or services defined in the contract, including in situations with multiple performance obligations. In July 2015, the FASB issued ASU 2015-14, “Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date,” which deferred the effective date of the previously issued revenue recognition guidance by one year. The guidance will be effective for annual and interim periods beginning after December 15, 2017. In April 2016 and May 2016, the FASB issued ASU 2016-10, "Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing" and ASU 2016-12, "Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients," respectively. Both of these updates provide improvements and clarification to the previously issued revenue recognition guidance. The guidance can be applied using one of two methods: retrospectively to each prior reporting period presented or retrospectively with the cumulative effect of initially applying the guidance recognized at the date of initial application. The Company is currently evaluating the effect that this guidance may have on its consolidated financial statements.

In July 2015, the FASB issued ASU 2015-11, Inventory (Topic 330): “Simplifying the Measurement of Inventory,” with guidance regarding the accounting for and measurement of inventory. The update requires that inventory measured using first-in, first-out ("FIFO") shall be measured at the lower of cost and net realizable value. When there is evidence that the net realizable value of inventory is lower than its cost, the difference shall be recognized as a loss in earnings in the period in which it occurs. The guidance will be effective for annual and interim periods beginning after December 15, 2016. The Company is currently evaluating the effect that this guidance may have on its consolidated financial statements.
In September 2015, the FASB issued ASU 2015-16, Business Combinations (Topic 805): “Simplifying the Accounting for Measurement-Period Adjustments,” with guidance regarding the accounting for and disclosure of measurement-period adjustments that occur in periods after a business combination is consummated. This update requires that the acquirer recognize measurement-period adjustments in the reporting period in which they are determined and, as such, eliminates the previous requirement to retrospectively account for these adjustments. This update also requires an entity to present separately on the face of the income statement, or disclose in the notes, the amount recorded in the current-period income statement that would have been recorded in previous reporting periods if the adjustments had been recognized as of the acquisition date. The effective date for annual and interim periods begins after December 15, 2015. The Company adopted this guidance during 2016, and it did not have a material effect on the Company’s consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842), with guidance regarding the accounting for and disclosure of leases. The update requires lessees to recognize all leases, including operating leases, with a term greater than 12 months on the balance sheet. This update also requires lessees and lessors to disclose key information about their leasing transactions. The guidance will be effective for annual and interim periods beginning after December 15, 2018. The Company is currently evaluating the effect that this guidance may have on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-06, Contingent Put and Call Options in Debt Instruments (Topic 815), with guidance regarding the accounting for embedded derivatives related to debt contracts. The update clarifies that determining whether the economic characteristics of a put or call are clearly and closely related to its debt host requires only an assessment of the four-step decision sequence outlined in FASB ASC paragraph 815-15-25-24. The update also indicates that entities are not required to separately assess whether the contingency itself is clearly and closely related. The guidance will be effective for annual and interim periods beginning after December 15, 2016. The Company is currently evaluating the effect that this guidance may have on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09, Improvements to Employee Share-Based Payment Accounting (Topic 718), with guidance regarding the simplification of accounting for share-based payment award transactions. The update changes the accounting for such areas as the accounting and cash flow classification for excess tax benefits and deficiencies; forfeitures; and tax withholding requirements and cash flow classification. The guidance will be effective for annual and interim periods beginning after December 15, 2016. The Company is currently evaluating the effect that this guidance may have on its consolidated financial statements.

6. FAIR VALUE MEASUREMENT AND FINANCIAL INSTRUMENTS

The carrying values of cash equivalents, accounts receivable, prepaid expenses and other current assets, and accounts payable in the Company’s consolidated balance sheets approximated their fair values as of June 30, 2016 and December 31, 2015 due to their short-term nature.

Certain of the Company’s financial instruments are measured at fair value using a three-level hierarchy that prioritizes the inputs used to measure fair value. This hierarchy maximizes the use of observable inputs and minimizes the use of unobservable inputs. The three levels of inputs used to measure fair value are as follows:

- **Level 1** - Inputs are quoted prices for identical instruments in active markets.
- **Level 2** - Inputs are quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; or model-derived valuations whose inputs are observable or whose significant value drivers are observable.
- **Level 3** - Inputs are unobservable and reflect the Company’s own assumptions, based on the best information available, including the Company’s own data.

The carrying amounts and fair values of the Company’s financial instruments as of June 30, 2016 and December 31, 2015 are indicated below (in thousands):
### As of June 30, 2016

<table>
<thead>
<tr>
<th>Assets</th>
<th>Carrying Amount</th>
<th>Fair Value</th>
<th>Quoted Prices in Active Markets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deferred Compensation Plan assets (1)</td>
<td>$30,980</td>
<td>$30,980</td>
<td>$ —</td>
<td>$30,980</td>
<td>$ —</td>
</tr>
<tr>
<td>Liabilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2% Convertible senior notes due June 2022 (2)</td>
<td>$600,000</td>
<td>$524,988</td>
<td>$524,988</td>
<td>$ —</td>
<td>$ —</td>
</tr>
<tr>
<td>Deferred Compensation Plan liabilities (1)</td>
<td>$27,768</td>
<td>$27,768</td>
<td>$ —</td>
<td>$27,768</td>
<td>$ —</td>
</tr>
</tbody>
</table>

### As of December 31, 2015

<table>
<thead>
<tr>
<th>Assets</th>
<th>Carrying Amount</th>
<th>Fair Value</th>
<th>Quoted Prices in Active Markets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deferred Compensation Plan assets (1)</td>
<td>$30,726</td>
<td>$30,726</td>
<td>$ —</td>
<td>$30,726</td>
<td>$ —</td>
</tr>
<tr>
<td>Liabilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2% Convertible senior notes due June 2022 (2)</td>
<td>$600,000</td>
<td>$602,250</td>
<td>$602,250</td>
<td>$ —</td>
<td>$ —</td>
</tr>
<tr>
<td>Deferred Compensation Plan liabilities (1)</td>
<td>$25,581</td>
<td>$25,581</td>
<td>$ —</td>
<td>$25,581</td>
<td>$ —</td>
</tr>
</tbody>
</table>

1. The Deferred Compensation Plan liabilities are non-current liabilities recorded at the value of the amount owed to the plan participants, with changes in value recognized as compensation expense in the Company’s consolidated statements of operations. The calculation of the Deferred Compensation Plan obligation is derived from observable market data by reference to hypothetical investments selected by the participants and is included in the line items captioned “Other non-current liabilities” on the Company’s consolidated balance sheets. The Company invests participant contributions in corporate-owned life insurance (“COLI”) policies, for which the cash surrender value is included in the line item captioned “Other non-current assets” on the Company’s consolidated balance sheets.

2. The difference between the amount shown as the carrying value in the above tables and the amount shown on the Company’s consolidated balance sheets at June 30, 2016 and December 31, 2015 represents the unaccreted discounts related to deferred debt issuance costs and bifurcation of the conversion feature of the notes.

7. SHORT-TERM INVESTMENTS

Prior to December 31, 2014, the Company invested its excess cash in high quality (AAA-rated) short-maturity marketable debt securities, such as commercial paper and corporate bonds. The Company historically held all of its investments in marketable debt securities until maturity. Accordingly, these investments were accounted for as “held-to-maturity” securities and were recorded at amortized cost, which approximated fair value. During the first quarter of 2015, the Company allowed all of its investments in marketable debt securities to mature. The proceeds from these maturities of $200.1 million were used to fund the Tower acquisition on March 9, 2015. The Company held no short-term investments as of June 30, 2016 and December 31, 2015.
8. ACCOUNTS RECEIVABLE

The composition of accounts receivable, net is as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross accounts receivable (1)</td>
<td>$778,444</td>
<td>$738,730</td>
</tr>
<tr>
<td>Less: Rebate reserve</td>
<td>(359,755)</td>
<td>(265,229)</td>
</tr>
<tr>
<td>Less: Chargeback reserve</td>
<td>(92,543)</td>
<td>(102,630)</td>
</tr>
<tr>
<td>Less: Distribution services reserve</td>
<td>(12,704)</td>
<td>(12,576)</td>
</tr>
<tr>
<td>Less: Discount reserve</td>
<td>(14,731)</td>
<td>(18,657)</td>
</tr>
<tr>
<td>Less: Uncollectible accounts reserve (2)</td>
<td>(61,257)</td>
<td>(15,187)</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>$237,454</td>
<td>$324,451</td>
</tr>
</tbody>
</table>

(1) Includes estimated $48.0 million and $40.6 million as of June 30, 2016 and December 31, 2015, respectively, receivable due from Turing for reimbursement of Daraprim® chargebacks and Medicaid rebate liabilities.

(2) As a result of the uncertainty of collection that developed since the filing of the Company’s Annual Report on Form 10-K for the year ended December 31, 2015, the Company recorded a reserve of $48.0 million as of June 30, 2016, which represents the full amount of the estimated receivable due from Turing as of that date. See "Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk" for additional information regarding the Turing receivable.

A roll-forward of the rebate and chargeback reserves activity for the six months ended June 30, 2016 and the year ended December 31, 2015 is as follows (in thousands):

**Rebate reserve**

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$265,229</td>
<td>$88,812</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>75,447</td>
</tr>
<tr>
<td>Provision recorded during the period for Impax Generics rebates</td>
<td>363,573</td>
<td>571,642</td>
</tr>
<tr>
<td>Credits issued during the period for Impax Generics rebates</td>
<td>(269,047)</td>
<td>(470,672)</td>
</tr>
<tr>
<td>Ending balance</td>
<td>$359,755</td>
<td>$265,229</td>
</tr>
</tbody>
</table>

**Chargeback reserve**

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$102,630</td>
<td>$43,125</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>24,532</td>
</tr>
<tr>
<td>Provision recorded during the period</td>
<td>430,155</td>
<td>833,157</td>
</tr>
<tr>
<td>Credits issued during the period</td>
<td>(440,242)</td>
<td>(798,184)</td>
</tr>
<tr>
<td>Ending balance</td>
<td>$92,543</td>
<td>$102,630</td>
</tr>
</tbody>
</table>

The payment mechanisms for rebates in the Impax Generics and Impax Specialty Pharma divisions are different, which impacts the location on the Company's balance sheet. Impax Specialty Pharma rebates are classified as Accrued Expenses on the Company's consolidated balance sheets.
9. INVENTORY

Inventory, net of carrying value reserves, at June 30, 2016 and December 31, 2015 consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raw materials</td>
<td>$55,589</td>
<td>$52,366</td>
</tr>
<tr>
<td>Work in-process</td>
<td>5,632</td>
<td>4,417</td>
</tr>
<tr>
<td>Finished goods</td>
<td>102,664</td>
<td>82,311</td>
</tr>
<tr>
<td>Total inventory</td>
<td>163,885</td>
<td>139,094</td>
</tr>
<tr>
<td>Less: Non-current inventory</td>
<td>15,806</td>
<td>13,512</td>
</tr>
<tr>
<td>Total current inventory</td>
<td>$148,079</td>
<td>$125,582</td>
</tr>
</tbody>
</table>

Inventory carrying value reserves were $33.4 million and $24.1 million at June 30, 2016 and December 31, 2015, respectively.

The Company recognizes pre-launch inventories at the lower of its cost or the expected net selling price. Cost is determined using a standard cost method, which approximates actual cost, and assumes a FIFO flow of goods. Costs of unapproved products are the same as approved products and include materials, labor, quality control, and production overhead. When the Company concludes FDA approval is expected within approximately six months, the Company will generally begin to schedule manufacturing process validation studies as required by the FDA to demonstrate the production process can be scaled up to manufacture commercial batches. Consistent with industry practice, the Company may build quantities of pre-launch inventories of certain products pending required final FDA approval and/or resolution of patent infringement litigation, when, in the Company’s assessment, such action is appropriate to prepare for the anticipated commercial launch. FDA approval is expected in the near term, and/or the related litigation will be resolved in the Company’s favor. The capitalization of unapproved pre-launch inventory involves risks, including, among other items, FDA approval of product may not occur; approvals may require additional or different testing and/or specifications than used for unapproved inventory; and, in cases where the unapproved inventory is for a product subject to litigation, the litigation may not be resolved or settled in favor of the Company. If any of these risks were to materialize and the launch of the unapproved product delayed or prevented, then the net carrying value of unapproved inventory may be partially or fully reserved. Generally, the selling price of a generic pharmaceutical product is at discount from the corresponding brand product selling price. Typically, a generic drug is easily substituted for the corresponding branded product, and once a generic product is approved, the pre-launch inventory is typically sold within the subsequent three months. If the market prices become lower than the product inventory carrying costs, then the pre-launch inventory value is reduced to such lower market value. If the inventory produced exceeds the estimated market acceptance of the generic product and becomes short-dated, a carrying value reserve will be recorded. In all cases, the carrying value of the Company's pre-launch product inventory is lower than the respective estimated net selling prices. The carrying value of unapproved inventory less reserves was $7.8 million and $8.7 million at June 30, 2016 and December 31, 2015, respectively.

To the extent inventory is not scheduled to be utilized in the manufacturing process and/or sold within twelve months of the balance sheet date, it is included as a component of other non-current assets. Amounts classified as non-current inventory consist of raw materials, net of valuation reserves. Raw materials generally have a shelf life of approximately three to five years, while finished goods generally have a shelf life of approximately two years.
10. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment, net of accumulated depreciation, consists of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$5,603</td>
<td>$5,773</td>
</tr>
<tr>
<td>Buildings and improvements</td>
<td>170,968</td>
<td>165,322</td>
</tr>
<tr>
<td>Equipment</td>
<td>140,069</td>
<td>135,998</td>
</tr>
<tr>
<td>Office furniture and equipment</td>
<td>15,983</td>
<td>14,548</td>
</tr>
<tr>
<td>Construction in-progress</td>
<td>36,093</td>
<td>25,659</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property, plant and equipment, gross</td>
<td>368,716</td>
<td>347,300</td>
</tr>
<tr>
<td>Less: Accumulated depreciation</td>
<td>(145,241)</td>
<td>(133,144)</td>
</tr>
<tr>
<td>Property, plant and equipment, net</td>
<td>$223,475</td>
<td>$214,156</td>
</tr>
</tbody>
</table>

Depreciation expense was $14.2 million and $10.4 million for the six months ended June 30, 2016 and June 30, 2015, respectively.

Unpaid vendor invoices relating to purchases of property, plant and equipment of $5.7 million and $1.3 million, which were accrued as of June 30, 2016 and June 30, 2015, respectively, have been excluded from the purchase of property, plant, and equipment and the change in accounts payable and accrued expenses in the Company’s consolidated statements of cash flows.

11. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

The Company’s finite-lived intangible assets, consisting of marketed product rights and royalties received from product sales by the Company’s third-party partners, are amortized over the estimated useful life of the asset based on the pattern of economic benefit expected to be realized or, if that pattern is not readily determinable, on a straight-line basis. The remaining weighted-average amortization period for the Company's finite-lived intangible assets not yet fully amortized is 10.7 years as of June 30, 2016. The Company’s indefinite-lived intangible assets consist of acquired in-process research and development (“IPR&D”) product rights and acquired future royalty rights to be paid based on other companies’ net sales of products not yet approved. Amortization over the estimated useful life will commence at the time of the respective product’s launch. If FDA approval to market the product is not obtained, the Company will immediately expense the related capitalized cost.

The following tables show the gross carrying values and accumulated amortization, where applicable, of the Company’s intangible assets by type for the consolidated balance sheets presented (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Gross Carrying Value</th>
<th>Accumulated Amortization</th>
<th>Intangible Assets, Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amortized intangible assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marketed product rights</td>
<td>$543,430</td>
<td>$(104,030)</td>
<td>$439,400</td>
</tr>
<tr>
<td>Royalties</td>
<td>2,200</td>
<td>(302)</td>
<td>1,898</td>
</tr>
<tr>
<td></td>
<td>545,630</td>
<td>(104,332)</td>
<td>441,298</td>
</tr>
<tr>
<td>Non-amortized intangible assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquired IPR&amp;D product rights</td>
<td>61,893</td>
<td>—</td>
<td>61,893</td>
</tr>
<tr>
<td>Acquired future royalty rights</td>
<td>78,600</td>
<td>—</td>
<td>78,600</td>
</tr>
<tr>
<td></td>
<td>140,493</td>
<td>—</td>
<td>140,493</td>
</tr>
<tr>
<td>Total intangible assets</td>
<td>$686,123</td>
<td>$(104,332)</td>
<td>$581,791</td>
</tr>
</tbody>
</table>

21
Amortized intangible assets:

<table>
<thead>
<tr>
<th>Description</th>
<th>Gross Carrying Value</th>
<th>Accumulated Amortization</th>
<th>Intangible Assets, Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marketed product rights</td>
<td>$458,675</td>
<td>$(82,906)</td>
<td>$375,769</td>
</tr>
<tr>
<td>Royalties</td>
<td>2,200</td>
<td>(189)</td>
<td>2,011</td>
</tr>
<tr>
<td></td>
<td>460,875</td>
<td>(83,095)</td>
<td>377,780</td>
</tr>
</tbody>
</table>

Non-amortized intangible assets:

<table>
<thead>
<tr>
<th>Description</th>
<th>Gross Carrying Value</th>
<th>Accumulated Amortization</th>
<th>Intangible Assets, Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquired IPR&amp;D product rights</td>
<td>145,640</td>
<td>—</td>
<td>145,640</td>
</tr>
<tr>
<td>Acquired future royalty rights</td>
<td>78,600</td>
<td>—</td>
<td>78,600</td>
</tr>
<tr>
<td></td>
<td>224,240</td>
<td>—</td>
<td>224,240</td>
</tr>
</tbody>
</table>

Total intangible assets

<table>
<thead>
<tr>
<th>Description</th>
<th>Gross Carrying Value</th>
<th>Accumulated Amortization</th>
<th>Intangible Assets, Net</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$685,115</td>
<td>$(83,095)</td>
<td>$602,020</td>
</tr>
</tbody>
</table>

During the first quarter of 2016, the Company capitalized $3.5 million of milestone payments due to an affiliate of Teva under the terms of the product agreement between the parties and related to the FDA's approval and the Company's subsequent commercial launch of Emverm® (mebendazole) 100 mg chewable tablets. As of December 31, 2015, the Emverm® acquired IPR&D product right had a carrying value of $82.8 million, which was the fair value assigned by the Company during the purchase price allocation accounting for the Tower acquisition. As a result of the Company's commercial launch of the product during the first quarter of 2016, the Company transferred the total $86.3 million of asset value from non-amortized, indefinite-lived acquired IPR&D product rights to amortized, finite-lived marketed product rights and began amortization of the asset. The Emverm® marketed product right intangible asset will be amortized over an estimated useful life of nine years based on the pattern of economic benefit expected to be realized through 2024.

During the second quarter of 2016, the Company recognized a total of $1.5 million of impairment charges within cost of revenues on the Company's consolidated statements of operations related to two currently marketed products, which were acquired as part of the Tower acquisition, primarily due to active pharmaceutical ingredient ("API") supply issues and minimal sales activity, resulting in immediate discontinuation of one product and rapid phase-out of the other. Additionally, one of the Company's IPR&D generic products, also acquired as part of the Tower acquisition, was determined to be impaired as a result of the commercial launch of a competitor's generic product, resulting in a $1.0 million charge to research and development expenses on the Company's consolidated statements of operations.

The Company recognized amortization expense of $12.5 million and $21.2 million for the three and six months ended June 30, 2016, respectively, and $12.6 million and $16.9 million for the three and six months ended June 30, 2015, respectively, in cost of revenues on its consolidated statements of operations. Assuming no changes to the gross carrying amount of finite-lived intangible assets, amortization expense for fiscal years 2016 through 2020 is estimated to be in the range of $37.7 million to $58.8 million annually.

**Goodwill**

Goodwill on the Company’s consolidated balance sheets at June 30, 2016 and December 31, 2015 is the result of the 2015 Tower acquisition and the 1999 merger of Impax Pharmaceuticals, Inc. with Global Pharmaceuticals Corporation. Goodwill had a carrying value of $289.4 million and $210.2 million at June 30, 2016 and December 31, 2015, respectively. The change in the carrying value during the six months ended June 30, 2016 compared to December 31, 2015 was entirely attributable to the finalization of the purchase price allocation during the first quarter of 2016 for the Tower acquisition as a result of the completion and filing of federal and state tax returns for the various entities acquired, which resulted in the adjustment of goodwill. At June 30, 2016, the Company attributed $148.7 million and $59.7 million to the Impax Generics division and the Impax Specialty Pharma division, respectively.
12. ACCRUED EXPENSES

The following table sets forth the Company’s accrued expenses (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payroll-related expenses</td>
<td>$25,855</td>
<td>$37,419</td>
</tr>
<tr>
<td>Product returns</td>
<td>60,190</td>
<td>48,950</td>
</tr>
<tr>
<td>Accrued shelf stock</td>
<td>6,945</td>
<td>6,619</td>
</tr>
<tr>
<td>Government rebates (1)</td>
<td>86,439</td>
<td>91,717</td>
</tr>
<tr>
<td>Legal and professional fees</td>
<td>13,279</td>
<td>5,929</td>
</tr>
<tr>
<td>Income taxes payable</td>
<td>—</td>
<td>830</td>
</tr>
<tr>
<td>Physician detailing sales force fees</td>
<td>394</td>
<td>1,132</td>
</tr>
<tr>
<td>Interest payable</td>
<td>500</td>
<td>500</td>
</tr>
<tr>
<td>Other</td>
<td>8,208</td>
<td>11,615</td>
</tr>
<tr>
<td><strong>Total accrued expenses</strong></td>
<td><strong>$201,810</strong></td>
<td><strong>$204,711</strong></td>
</tr>
</tbody>
</table>

(1) Includes estimated $24.4 million and $40.6 million as of June 30, 2016 and December 31, 2015, respectively, of liabilities for Daraprim® chargebacks and rebates resulting from utilization by Medicaid, Medicare and other federal, state and local governmental programs, health plans and other health care providers for product sold under the Company’s labeler code, which amounts are subject to reimbursement by Turing in accordance with the terms of the Company's purchase agreement with Turing. The Company made payments of $23.6 million on Turing's behalf during the first and second quarters of 2016. See “Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk” for additional information related to the Turing receivable.

### Product Returns

The Company maintains a return policy to allow customers to return product within specified guidelines. The Company estimates a provision for product returns as a percentage of gross sales based upon historical experience for sales made through its Impax Generics and Impax Specialty Pharma sales channels. Sales of product under the Private Label, Rx Partner and OTC Partner alliance, collaboration and supply agreements are not subject to returns.

A roll-forward of the return reserve activity for the six months ended June 30, 2016 and the year ended December 31, 2015 is as follows (in thousands):

<table>
<thead>
<tr>
<th>Returns Reserve</th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$48,950</td>
<td>$27,174</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>11,364</td>
</tr>
<tr>
<td>Provision related to sales recorded in the period</td>
<td>24,937</td>
<td>43,967</td>
</tr>
<tr>
<td>Credits issued during the period</td>
<td>(13,697)</td>
<td>(33,555)</td>
</tr>
<tr>
<td><strong>Ending balance</strong></td>
<td><strong>$60,190</strong></td>
<td><strong>$48,950</strong></td>
</tr>
</tbody>
</table>

13. DEBT

2% Convertible Senior Notes due June 2022

On June 30, 2015, the Company issued an aggregate principal amount of $600.0 million of 2.00% Convertible Senior Notes due June 2022 (the “Notes”) in a private placement offering, which are the Company’s senior unsecured obligations. The Notes were issued pursuant to an Indenture dated June 30, 2015 (the “Indenture”) between the Company and Wilmington Trust, N.A. as trustee. The Indenture includes customary covenants and sets forth certain events of default after which the Notes may be due and payable immediately. The Notes will mature on June 15, 2022, unless earlier redeemed, repurchased or converted. The Notes bear interest at a rate of 2.00% per year, and interest is payable semiannually in arrears on June 15 and December 15 of each year, beginning from December 15, 2015.
The conversion rate for the Notes is initially set at 15.7858 shares per $1,000 of principal amount, which is equivalent to an initial conversion price of $63.35 per share of the Company’s common stock. If a Make-Whole Fundamental Change (as defined in the Indenture) occurs or becomes effective prior to the maturity date and a holder elects to convert its Notes in connection with the Make-Whole Fundamental Change, the Company is obligated to increase the conversion rate for the Notes so surrendered by a number of additional shares of the Company’s common stock as prescribed in the Indenture. Additionally, the conversion rate is subject to adjustment in the event of an equity restructuring transaction such as a stock dividend, stock split, spinoff, rights offering, or recapitalization through a large, nonrecurring cash dividend (“standard antidilution provisions,” per FASB ASC Topic 815-40, Contracts in Entity’s Own Equity (“ASC 815-40”)).

The Notes are convertible at the option of the holders at any time prior to the close of business on the business day immediately preceding December 15, 2021 only under the following circumstances:

(i) If during any calendar quarter commencing after the quarter ending September 30, 2015 (and only during such calendar quarter) the last reported sale price of the Company’s common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than 130% of the conversion price on each applicable trading day; or

(ii) If during the 5 business day period after any 10 consecutive trading day period (the “measurement period”) in which the trading price per $1,000 of principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last report sale price of the Company’s common stock and the conversion rate on each such trading day; or

(iii) Upon the occurrence of corporate events specified in the Indenture.

On or after December 15, 2021 until the close of business on the second scheduled trading day immediately preceding the maturity date, the holders may convert their Notes at any time, regardless of the foregoing circumstances. The Company may satisfy its conversion obligation by paying or delivering, as the case may be, cash, shares of the Company’s common stock, or a combination of cash and shares of the Company’s common stock, at the Company’s election and in the manner and subject to the terms and conditions provided in the Indenture.

Concurrently with the offering of the Notes and using a portion of the proceeds from the sale of the Notes, the Company entered into a series of convertible note hedge and warrant transactions (the “Note Hedge Transactions” and “Warrant Transactions”) which are designed to reduce the potential dilution to the Company’s stockholders and/or offset the cash payments the Company is required to make in excess of the principal amount upon conversion of the Notes. The Note Hedge Transactions and Warrant Transactions are separate transactions, in each case, entered into by the Company with a financial institution and are not part of the terms of the Notes. These transactions will not affect any holder’s rights under the Notes, and the holders of the Notes have no rights with respect to the Note Hedge Transactions and Warrant Transactions. See “Note 14. Stockholders’ Equity” for additional information.

At the June 30, 2015 issuance date of the Notes, the Company did not have the necessary number of authorized but unissued shares of its common stock available to share-settle the conversion option of the Notes. Therefore, in accordance with guidance found in FASB ASC Topic 470-20, Debt with Conversion and Other Options, and FASB Topic ASC 815-15, Embedded Derivatives, the conversion option of the Notes was deemed an embedded derivative requiring bifurcation from the Notes (host contract) and separate accounting as a derivative liability. The fair value of the conversion option derivative liability on June 30, 2015 was $167.0 million, which was recorded as a reduction to the carrying value of the debt and will be accreted to interest expense over the term of the debt using the effective interest method. Although the Company received stockholder approval on December 8, 2015 to amend the Company’s Restated Certificate of Incorporation to increase the authorized number of shares of the Company’s common stock (which amendment has occurred), the debt discount remains and continues to be accreted to interest expense. See “Note 14. Stockholders’ Equity” for additional information.

In connection with the issuance of the Notes, the Company incurred $18.7 million of debt issuance costs for banking, legal and accounting fees and other expenses. This amount was also recorded on the Company’s balance sheet as a reduction to the carrying value of the debt, in accordance with the Company’s early adoption of ASU No. 2015-03 - Simplifying the Presentation of Debt Issuance Costs (“ASU 2015-03”), and will be accreted to interest expense over the term of the debt using the effective interest method.

For the three and six months ended June 30, 2016, the Company recognized $8.5 million and $16.8 million, respectively, of interest expense related to the Notes, of which $3.0 million and $6.0 million, respectively, was cash and $5.5 million and $10.8 million, respectively, was non-cash accretion of the debt discounts recorded. As the Notes mature in 2022, they have been classified as long-term debt on the Company's consolidated balance sheets, with a carrying value of $435.3 million and $424.6 million as
of June 30, 2016 and December 31, 2015, respectively. Accrued interest payable on the Notes of $0.5 million as of both June 30, 2016 and December 31, 2015 is included in accrued expenses on the Company's consolidated balance sheets.

Royal Bank of Canada Credit Facilities

On August 4, 2015, the Company entered into a senior secured revolving credit facility (the “Revolving Credit Facility”) of up to $100 million, pursuant to a credit agreement by and among the Company, the lenders party thereto from time to time and Royal Bank of Canada, as administrative agent and collateral agent. The Revolving Credit Facility is available for working capital and other general corporate purposes. No borrowings have been drawn from the Revolving Credit Facility from its inception through June 30, 2016. The Revolving Credit Facility was originally set to mature on August 4, 2020. Refer to “Note 24. Subsequent Events” for additional information on the significant changes to the Company's Revolving Credit Facility.

Loss on Early Extinguishment of Debt – Barclays $435.0 million Term Loan

In connection with the acquisition of Tower during the first quarter of 2015, the Company entered into a $435.0 million senior secured term loan facility (the “Barclays Term Loan”) and a $50.0 million senior secured revolving credit facility (the “Barclays Revolver,” and collectively with the Barclays Term Loan, the “Barclays Senior Secured Credit Facilities”), pursuant to a credit agreement, dated as of March 9, 2015, by and among the Company, the lenders party thereto from time to time and Barclays Bank PLC (“Barclays”), as administrative and collateral agent (the “Barclays Credit Agreement”). In connection with the Barclays Senior Secured Credit Facilities, the Company incurred debt issuance costs for banking, legal and accounting fees and other expenses of $17.8 million, which were previously reflected as a discount to the carrying value of the debt on the Company’s consolidated balance sheet in accordance with ASU 2015-03. Prior to repayment of the Barclays Term Loan on June 30, 2015, this debt discount was accreted to interest expense over the term of the loan using the effective interest rate method.

On June 30, 2015, the Company used $436.4 million of the proceeds from the sale of the Notes to repay the $435.0 million of principal and $1.4 million of accrued interest due on its Barclays Term Loan under the Barclays Credit Agreement. In connection with this repayment of the loan, for the quarter ended June 30, 2015, the Company recorded a loss on early extinguishment of debt of $16.9 million related to the unaccrued portion of the debt discount.

For the three months ended June 30, 2015, the Company incurred total interest expense related to the Barclays Term Loan of $6.8 million, of which $6.0 million was cash and $0.8 million was non-cash accretion of the debt discount recorded. For the six months ended June 30, 2015, the Company incurred total interest expense related to the Barclays Term Loan of $10.7 million, of which $9.8 million was cash and $0.9 million was non-cash accretion of the debt discount recorded. Included in the prior year-to-date cash interest expense of $9.8 million is a $2.3 million ticking fee paid to Barclays during the first quarter of 2015, prior to the funding of the Barclays Senior Secured Credit Facilities on March 9, 2015, to lock in the financing terms from the lenders’ commitment of the Barclays Term Loan until the actual allocation of the loan occurred at the closing of the Tower acquisition.

14. STOCKHOLDERS’ EQUITY

Preferred Stock

Pursuant to its Restated Certificate of Incorporation, as amended (the “Certificate of Incorporation”), the Company is authorized to issue 2,000,000 shares of “blank check” preferred stock, $0.01 par value per share, which enables the Board of Directors, from time to time, to create one or more new series of preferred stock. Each series of preferred stock issued can have the rights, preferences, privileges and restrictions designated by the Board of Directors. The issuance of any new series of preferred stock could affect, among other things, the dividend, voting, and liquidation rights of the Company's common stock. The Company had no preferred stock issued or outstanding as of June 30, 2016 and December 31, 2015.

Common Stock

Pursuant to its Certificate of Incorporation, the Company is authorized to issue 150,000,000 shares of common stock, $0.01 par value per share, of which 74,106,376 shares have been issued and 73,862,647 shares were outstanding as of June 30, 2016. In addition, the Company had reserved for issuance the following amounts of shares of its common stock for the purposes described below as of June 30, 2016 (in thousands):

25
Warrants

As discussed in “Note 13. Debt,” on June 30, 2015, the Company entered into a series of Note Hedge Transactions and Warrant Transactions with a financial institution which are designed to reduce the potential dilution to the Company’s stockholders and/or offset the cash payments the Company is required to make in excess of the principal amount upon conversion of the Notes. Pursuant to the Warrant Transactions, the Company sold to a financial institution 9.47 million warrants to purchase the Company’s common stock, for which it received proceeds of $88.3 million. The warrants have an exercise price of $81.277 per share (subject to adjustment), are immediately exercisable, and have an expiration date of September 15, 2022.

Additional Paid-in Capital

Pursuant to the Note Hedge Transactions, the Company purchased from a financial institution 0.6 million call options on the Company's common stock, for which it paid consideration of $147.0 million. Each call option entitles the Company to purchase 15.7858 shares of the Company's common stock at an exercise price of $63.35 per share, is immediately exercisable, and has an expiration date of June 15, 2022, subject to earlier exercise. At the time of the Note Hedge Transactions, because of an insufficient number of authorized but unissued shares of the Company's common stock, these call options did not meet the criteria for equity classification under ASC 815-40 and were accounted for as a derivative asset.

As of December 8, 2015, pursuant to the Company's amendment to its Certificate of Incorporation to increase the number of authorized shares of common stock, the call options purchased pursuant to the Note Hedge Transactions (formerly a derivative asset) and the conversion option of the Notes (formerly an embedded derivative liability) were reclassified to equity in additional paid-in capital. The net effect of the reclassification of these derivatives was a $21.0 million, net of tax, increase in additional paid-in capital reflected on the Company's December 31, 2015 consolidated balance sheet.

15. EARNINGS PER SHARE

The Company's basic earnings per common share (“EPS”) is computed by dividing net income (loss) available to the Company’s common stockholders (as presented on the consolidated statements of operations) by the weighted-average number of shares of the Company’s common stock outstanding during the period. The Company’s restricted stock awards (non-vested shares) are issued and outstanding at the time of grant but are excluded from the Company’s computation of weighted-average shares outstanding in the determination of basic EPS until vesting occurs.

For purposes of calculating diluted EPS, the denominator includes both the weighted-average number of shares of common stock outstanding and the number of common stock equivalents if the inclusion of such common stock equivalents would be dilutive. Dilutive common stock equivalents potentially include warrants, stock options and non-vested restricted stock awards using the treasury stock method and the number of shares of common stock issuable upon conversion of the Company’s outstanding convertible notes payable. In the case of the Company’s outstanding convertible notes payable, the diluted EPS calculation is further affected by an add-back of interest expense, net of tax, to the numerator under the assumption that the interest would not have been incurred if the convertible notes had been converted into common stock.
The following is a reconciliation of basic and diluted net loss per share of common stock for the three and six months ended June 30, 2016 and 2015 (in thousands, except per share amounts):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td><strong>Basic Loss Per Common Share:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (2,701)</td>
<td>$ (1,852)</td>
</tr>
<tr>
<td>Weighted-average common shares outstanding</td>
<td>71,100</td>
<td>69,339</td>
</tr>
<tr>
<td>Basic loss per share</td>
<td>$ (0.04)</td>
<td>$ (0.03)</td>
</tr>
</tbody>
</table>

| **Diluted Loss Per Common Share:** |        |        |        |        |
| Net loss                       | $ (2,701) | $ (1,852) | $ (13,109) | $ (8,185) |
| Add-back of interest expense on outstanding convertible notes payable, net of tax | — (1) | — (1) | — (1) | — (1) |
| Adjusted net loss              | $ (2,701) | $ (1,852) | $ (13,109) | $ (8,185) |
| Weighted-average common shares outstanding | 71,100 | 69,339 | 70,883 | 69,154 |
| Weighted-average incremental shares related to assumed exercise of warrants and stock options, vesting of non-vested shares and ESPP share issuance | — (2) | — (3) | — (2) | — (3) |
| Weighted-average incremental shares assuming conversion of outstanding notes payable | — (1) | — (1) | — (1) | — (1) |
| Diluted weighted-average common shares outstanding | 71,100 (2) | 69,339 (3) | 70,883 (2) | 69,154 (3) |
| Diluted net loss per share     | $ (0.04) | $ (0.03) | $ (0.18) | $ (0.12) |

(1) For the three and six month periods ended June 30, 2016 and 2015, the Company incurred a net loss, which cannot be diluted, so basic and diluted loss per common share were the same. Accordingly, there were no numerator or denominator adjustments related to the Company’s convertible notes payable.

(2) For the three and six month periods ended June 30, 2016, the Company incurred a net loss, which cannot be diluted, so basic and diluted loss per common share were the same. As of June 30, 2016, shares issuable but not included in the Company's calculation of diluted EPS, which could potentially dilute future earnings, include 9.47 million warrants outstanding, 9.47 million shares for conversion of outstanding convertible notes payable, 2.45 million stock options outstanding and 2.63 million non-vested restricted stock awards.

(3) For the three and six month periods ended June 30, 2015, the Company incurred a net loss, which cannot be diluted, so basic and diluted loss per common share were the same. As of June 30, 2015, shares issuable but not included in the Company's calculation of diluted EPS, which could potentially dilute future earnings, include 9.47 million warrants outstanding, 9.47 million shares for conversion of outstanding convertible notes payable, 3.07 million stock options outstanding and 2.28 million non-vested restricted stock awards.
16. SHARE-BASED COMPENSATION

The Company recognizes the grant date fair value of each stock option and restricted stock award over its vesting period. Stock options and restricted stock awards are granted under the Company’s Second Amended and Restated 2002 Equity Incentive Plan (the “2002 Plan”) and generally vest over a three or four year period and have a term of 10 years.

Impax Laboratories, Inc. 1999 Equity Incentive Plan ("1999 Plan")

The aggregate number of shares of common stock authorized for issuance pursuant to the Company’s 1999 Plan is 5,000,000 shares. There were 938 and 10,938 stock options outstanding at June 30, 2016 and December 31, 2015, respectively, under the 1999 Plan.

Impax Laboratories, Inc. Second Amended and Restated 2002 Equity Incentive Plan ("2002 Plan")

The aggregate number of shares of common stock authorized for issuance pursuant to the Company's 2002 Plan is 14,950,000 shares. There were 2,451,915 and 2,394,433 stock options outstanding at June 30, 2016 and December 31, 2015, respectively, and 2,630,117 and 2,146,498 non-vested restricted stock awards outstanding at June 30, 2016 and December 31, 2015, respectively, under the 2002 Plan.

The stock option activity for all of the Company’s equity compensation plans noted above is summarized as follows:

<table>
<thead>
<tr>
<th>Stock Options</th>
<th>Number of Shares Under Option</th>
<th>Weighted-Average Exercise Price per Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding at December 31, 2015</td>
<td>2,405,371</td>
<td>$21.39</td>
</tr>
<tr>
<td>Options granted</td>
<td>489,840</td>
<td>$12.86</td>
</tr>
<tr>
<td>Options exercised</td>
<td>(420,092)</td>
<td>$20.74</td>
</tr>
<tr>
<td>Options forfeited</td>
<td>(22,266)</td>
<td>$38.10</td>
</tr>
<tr>
<td>Outstanding at June 30, 2016</td>
<td>2,452,853</td>
<td>$23.65</td>
</tr>
<tr>
<td>Options exercisable at June 30, 2016</td>
<td>1,493,835</td>
<td>$17.15</td>
</tr>
</tbody>
</table>

As of June 30, 2016, stock options outstanding and exercisable had average remaining contractual lives of 7.56 years and 5.71 years, respectively. Also, as of June 30, 2016, stock options outstanding and exercisable each had aggregate intrinsic values of $20.1 million and $18.7 million, respectively, and restricted stock awards outstanding had an aggregate intrinsic value of $75.8 million. As of June 30, 2016, the Company estimated there were 2,171,494 stock options and 2,328,424 restricted shares granted to employees which were vested or expected to vest.

The Company grants restricted stock to certain eligible employees as a component of its long-term incentive compensation program. The restricted stock award grants are made in accordance with the Company’s 2002 Plan and are issued and outstanding at the time of grant but are subject to forfeiture if the vesting conditions are not met. A summary of the non-vested restricted stock awards is as follows:

<table>
<thead>
<tr>
<th>Restricted Stock Awards</th>
<th>Number of Restricted Stock Awards</th>
<th>Weighted-Average Grant Date Fair Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-vested at December 31, 2015</td>
<td>2,146,498</td>
<td>$33.20</td>
</tr>
<tr>
<td>Granted</td>
<td>1,043,132</td>
<td>$32.71</td>
</tr>
<tr>
<td>Vested</td>
<td>(385,566)</td>
<td>$26.79</td>
</tr>
<tr>
<td>Forfeited</td>
<td>(173,947)</td>
<td>$32.85</td>
</tr>
<tr>
<td>Non-vested at June 30, 2016</td>
<td>2,630,117</td>
<td>$33.97</td>
</tr>
</tbody>
</table>

Included in the 385,566 shares of restricted stock vested during the six months ended June 30, 2016 are 126,647 shares with a weighted-average fair value of $33.66 per share that were withheld for minimum withholding tax purposes upon vesting of such awards from stockholders who elected to net share settle such tax withholding obligation.
As of June 30, 2016, the Company had 643,386 shares available for issuance of either stock options or restricted stock awards, including 282,756 shares from the 2002 Plan, 296,921 shares from the 1999 Plan, and 63,709 shares from the 2001 Non-Qualified Employee Stock Purchase Plan (“ESPP”) Plan.

As of June 30, 2016, the Company had total unrecognized share-based compensation expense, net of estimated forfeitures, of $81.1 million related to all of its share-based awards, which will be recognized over a weighted average period of 2.4 years. The intrinsic value of options exercised during the six months ended June 30, 2016 and 2015 was $4.9 million and $9.6 million, respectively. The total fair value of restricted shares which vested during the six months ended June 30, 2016 and 2015 was $10.3 million and $8.1 million, respectively.

The Company estimated the fair value of each stock option award on the grant date using the Black-Scholes option pricing model, wherein expected volatility is based on historical volatility of the Company’s common stock. The expected term calculation is based on the “simplified” method described in SAB No. 107, Share-Based Payment and SAB No. 110, Share-Based Payment, as the result of the simplified method provides a reasonable estimate in comparison to actual experience. The risk-free interest rate is based on the U.S. Treasury yield at the date of grant for an instrument with a maturity that is commensurate with the expected term of the stock options. The dividend yield of zero is based on the fact that the Company has never paid cash dividends on its common stock, and has no present intention to pay cash dividends. Options granted under each of the above plans generally vest from three to four years and have a term of 10 years.

The amount of share-based compensation expense recognized by the Company is as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Manufacturing expenses</td>
<td>$1,880</td>
<td>$1,192</td>
</tr>
<tr>
<td>Research and development</td>
<td>1,607</td>
<td>1,367</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>4,898</td>
<td>4,512</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$8,385</td>
<td>$7,071</td>
</tr>
</tbody>
</table>

17. RESTRUCTURINGS

Middlesex, New Jersey Manufacturing and Packaging Operations

In March 2016, the Company's Board of Directors approved a plan of restructuring designed to reduce costs, improve operating efficiencies and enhance the Company's long-term competitive position by closing the Company's Middlesex, New Jersey manufacturing and packaging site and transferring the products and the functions performed there to the Company's other facilities or to third-party manufacturers. This plan will take up to two years to complete, over which time 215 positions are currently expected to be eliminated. This plan does not impact the Company's R&D activities at the Middlesex site.

Management currently estimates that over the next two years the Company will incur aggregate pre-tax charges in connection with this plan of $45.0 million, of which approximately half will be incurred in 2016 and the remainder by the second quarter of 2018. The following is a summary of the total estimated charges to be incurred by major type of cost (in millions):

<table>
<thead>
<tr>
<th>Type of Cost</th>
<th>Amount Expected to be Incurred</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee retention and severance payments</td>
<td>$15.0</td>
</tr>
<tr>
<td>Technical transfer of products</td>
<td>14.5</td>
</tr>
<tr>
<td>Asset impairment and accelerated depreciation charges</td>
<td>13.0</td>
</tr>
<tr>
<td>Facilities lease terminations and asset retirement obligations</td>
<td>2.2</td>
</tr>
<tr>
<td>Legal and professional fees</td>
<td>0.3</td>
</tr>
<tr>
<td><strong>Total estimated restructuring charges</strong></td>
<td><strong>$45.0</strong></td>
</tr>
</tbody>
</table>

Employee retention and severance payments are being accrued over the estimated service period. For the three months ended June 30, 2016, the Company recorded to cost of goods sold accrued expenses for employee retention and severance payments.
of $1.9 million and accelerated depreciation and technical transfer expenses of $1.7 million and $1.6 million, respectively. For the six months ended June 30, 2016, the Company recorded to cost of goods sold accrued expenses for employee retention and severance payments of $2.6 million and accelerated depreciation, technical transfer and legal and professional fees and expenses of $2.3 million, $1.6 million and $0.1 million, respectively. At June 30, 2016, the $2.6 million balance of accrued employee retention and severance payments was included in accrued expenses on the Company’s consolidated balance sheet.

Hayward, California Technical Operations and R&D

In November 2015, the Company’s management assessed the headcount in the technical operations and research and development groups in Hayward, California, primarily as a result of the resolution of the warning letter at the Hayward facility, and determined that a reduction-in-force was necessary to adjust the headcount to the operating conditions of the post-warning letter resolution environment. The Company eliminated 27 positions and recorded an accrual for severance and related employee termination benefits of $2.5 million during the quarter ended December 31, 2015. As of June 30, 2016, $1.8 million has been paid, and the Company currently expects the remainder of this balance to be paid by early 2017.

Philadelphia, Pennsylvania Packaging and Distribution Operations

On June 30, 2015, the Company committed to a plan of restructuring of its packaging and distribution operations and as a result of this plan, the Company closed its Philadelphia packaging site and all Company-wide distribution operations were outsourced to United Parcel Services during the fiscal year ended December 31, 2015. The Company eliminated 93 positions and recorded an accrual for severance and related employee termination benefits of $2.6 million during the quarter ended June 30, 2015. As of June 30, 2016, the full $2.6 million had been paid.

18. INCOME TAXES

The Company calculates its interim income tax provision in accordance with FASB ASC Topics 270 and 740. At the end of each interim period, the Company makes an estimate of the annual United States domestic and foreign jurisdictions’ expected effective tax rates and applies these rates to its respective year-to-date taxable income or loss. The computation of the annual estimated effective tax rates at each interim period requires certain estimates and assumptions including, but not limited to, the expected operating income for the year, projections of the proportion of income (or loss) earned and taxed in the United States, and the various state and local tax jurisdictions, as well as tax jurisdictions outside the United States, along with permanent differences, and the likelihood of deferred tax asset utilization. The accounting estimates used to compute the provision for income taxes may change as new events occur, more experience is acquired or additional information is obtained. The computation of the annual estimated effective tax rate includes modifications, which were projected for the year, for share-based compensation and state research and development credits, among others. In addition, the effect of changes in enacted tax laws, rates, or tax status is recognized in the interim period in which the respective change occurs.

The Company's effective tax rate for the six month periods ended June 30, 2016 and 2015 was 39% and 46%, respectively. During the six month period ended June 30, 2016, the Company recognized aggregate consolidated tax benefits of $8.3 million and $7.1 million, respectively, for U.S. domestic and foreign income taxes. The amount of tax benefit recorded for the six months ended June 30, 2016 reflects the Company’s estimate as of such date of the annual effective tax rate applied to the year-to-date loss. A discrete tax benefit of $17.4 million for the reserve recorded against the Turing receivable as described above under "Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk" is also reflected in income tax benefit for the six months ended June 30, 2016. Excluding discrete items, the Company’s estimate of the annualized effective tax rate for the six months ended June 30, 2016 was 32%. The effective tax rate, including the effects of discrete tax income tax items, was 39% for the six months ended June 30, 2016. Due to the taxable loss for the six months ended June 30, 2016, the discrete tax benefit increased the tax rate. The increase in the aggregate tax benefit compared to the prior year period resulted from higher consolidated loss before taxes in the six month period ended June 30, 2016, as compared to the same period in the prior year. The increase in tax benefit during the six month period ended June 30, 2016 was also a result of a change in the timing and mix of U.S. and foreign income; the exclusion of a zero-rate jurisdiction from the interim effective tax rate calculation; the inclusion of the federal research and development credit which was permanently reinstated in December of 2015; and an increase in the deferred tax asset related to a state R&D tax credit carryforward in a state with indefinite carryforwards. The Company is closely monitoring the events and circumstances that determine the need for a valuation allowance related to state research and development tax credit carryforwards and have determined that, based upon the evaluation of the provisions of ASC 740, no valuation allowance will be recorded at this time.

As of June 30, 2016, Lineage was in the process of closing an audit for federal income tax by the U.S. Internal Revenue Service ("IRS") for the 2013 tax year, which pre-dates the Company’s acquisition of Lineage. The Company and the former stockholders of Lineage cooperated with the IRS in connection with the audit. Under the terms of the Stock Purchase Agreement
related to the Tower acquisition, the Company is not responsible for pre-acquisition income tax liabilities. Lineage audit results have been discussed with the Company and communicated to the former stockholders of Lineage. As of June 30, 2016, the Company had been informed that a no change letter would be issued by the IRS. Neither the Company nor any of its other affiliates is currently under audit for federal income tax. No provision has been made for U.S. federal deferred income taxes on accumulated earnings on foreign subsidiaries since it is the current intention of management to indefinitely reinvest the undistributed earnings in the foreign subsidiary. See "Note. 24 - Subsequent Events" for additional information on the results of the IRS audit.

19. ALLIANCE AND COLLABORATION AGREEMENTS

The Company has entered into several alliance, collaboration, license and distribution agreements, and similar agreements with respect to certain of its products and services, with unrelated third-party pharmaceutical companies. The consolidated statements of operations include revenue recognized under agreements the Company has entered into to develop marketing and/or distribution relationships with its partners to fully leverage its technology platform and revenue recognized under development agreements which generally obligate the Company to provide research and development services over multiple periods.

The Company’s alliance and collaboration agreements often include milestones and provide for milestone payments upon achievement of these milestones. Generally, the milestone events contained in the Company’s alliance and collaboration agreements coincide with the progression of the Company’s products and technologies from pre-commercialization to commercialization.

The Company groups pre-commercialization milestones in its alliance and collaboration agreements into clinical and regulatory categories, each of which may include the following types of events:

Clinical Milestone Events:
- **Designation of a development candidate**. Following the designation of a development candidate, generally, IND-enabling animal studies for a new development candidate take 12 to 18 months to complete.
- **Initiation of a Phase I clinical trial**. Generally, Phase I clinical trials take one to two years to complete.
- **Initiation or completion of a Phase II clinical trial**. Generally, Phase II clinical trials take one to three years to complete.
- **Initiation or completion of a Phase III clinical trial**. Generally, Phase III clinical trials take two to four years to complete.
- **Completion of a bioequivalence study**. Generally, bioequivalence studies take three months to one year to complete.

Regulatory Milestone Events:
- **Filing or acceptance of regulatory applications for marketing approval such as a New Drug Application in the United States or Marketing Authorization Application in Europe**. Generally, it takes six to 12 months to prepare and submit regulatory filings and two months for a regulatory filing to be accepted for substantive review.
- **Marketing approval in a major market, such as the United States or Europe**. Generally it takes one to three years after an application is submitted to obtain approval from the applicable regulatory agency.
- **Marketing approval in a major market, such as the United States or Europe for a new indication of an already-approved product**. Generally it takes one to three years after an application for a new indication is submitted to obtain approval from the applicable regulatory agency.

Commercialization Milestones Events:
- **First commercial sale in a particular market, such as in the United States or Europe**.
- **Product sales in excess of a pre-specified threshold, such as annual sales exceeding $100 million**. The amount of time to achieve this type of milestone depends on several factors including but not limited to the dollar amount of the threshold, the pricing of the product and the pace at which customers begin using the product.

License and Distribution Agreement with Shire

In January 2006, the Company entered into a License and Distribution Agreement with an affiliate of Shire Laboratories, Inc., which was subsequently amended (“Prior Shire Agreement”), under which the Company received a non-exclusive license to market and sell an authorized generic of Shire’s Adderall XR® product (“AG Product”) subject to certain conditions, but in
any event by no later than January 1, 2010. The Company commenced sales of the AG Product in October 2009. On February 7, 2013, the Company entered into an Amended and Restated License and Distribution Agreement with Shire (the “Amended and Restated Shire Agreement”), which amended and restated the Prior Shire Agreement. The Amended and Restated Shire Agreement was entered into by the parties in connection with the settlement of the Company’s litigation with Shire relating to Shire’s supply of the AG Product to the Company under the Prior Shire Agreement. During 2013, the Company received a payment of $48.0 million from Shire in connection with such litigation settlement, which was recorded in the first quarter of 2013 under the line item “Other Income” on the consolidated statement of operations. Under the Amended and Restated Shire Agreement, Shire was required to supply the AG Product and the Company was responsible for marketing and selling the AG Product subject to the terms and conditions thereof until the earlier of (i) the first commercial sale of the Company’s generic equivalent product to Adderall XR® and (ii) September 30, 2014 (the “Supply Term”), subject to certain continuing obligations of the parties upon expiration or early termination of the Supply Term, including Shire’s obligation to deliver AG Products still owed to the Company as of the end of the Supply Term. The Company is required to pay a profit share to Shire on sales of the AG Product, of which the Company owed a profit share payable to Shire of $5.5 million and $11.3 million on sales of the AG Product during the six months ended June 30, 2016 and 2015, respectively, with a corresponding charge included in the cost of revenues line in the consolidated statement of operations. Although the Supply Term expired on September 30, 2014, the Company was permitted to sell any AG Products in its inventory or owed to the Company by Shire under the Amended and Restated Shire Agreement until all such products are sold. The Company continued to pay a profit share to Shire on sales of such products during the six months ended June 30, 2016.

Development, Supply and Distribution Agreement with TOLMAR, Inc.

Under the terms of the Tolmar Agreement, Tolmar granted to the Company an exclusive license to commercialize up to 11 generic topical prescription drug products, including ten currently approved products in the United States and its territories; the parties agreed in 2015 to terminate development efforts of one product under the Tolmar Agreement that had been pending approval at the FDA. Under the terms of the Tolmar Agreement, Tolmar is responsible for developing and manufacturing the products, and the Company is responsible for marketing and sale of the products. As of June 30, 2016, the Company was currently marketing and selling four approved products. The Company is required to pay a profit share to Tolmar on sales of each product commercialized pursuant to the terms of the Tolmar Agreement.

The Company paid Tolmar a $21.0 million upfront payment upon signing of the agreement and, pursuant to the terms of the agreement, is also required to make payments to Tolmar upon the achievement of certain specified milestone events. Such contingent milestone payments will initially be recognized in the period the triggering event occurs. Milestone payments which are contingent upon commercialization events will be accounted for as an additional cost of acquiring the product license rights. Milestone payments which are contingent upon regulatory approval events will be capitalized and amortized over the remaining estimated useful life of the approved product. During the year ended December 31, 2012, the Company made a $1.0 million milestone payment and, during the fourth quarter of 2013, the Company made a $12.0 million payment to Tolmar upon Tolmar’s achievement of a regulatory milestone event in accordance with the terms of the Tolmar Agreement. The $21.0 million upfront payment for the Tolmar product rights has been allocated to the underlying topical products based upon the relative fair value of each product and will be amortized over the remaining estimated useful life of each underlying product, ranging from five to 12 years, starting upon commencement of commercialization activities by the Company during the second half of 2012. The amortization of the Tolmar product rights has been included as a component of cost of revenues on the consolidated statements of operations. The Company initially allocated $1.55 million of the upfront payment to two products which were in development and has recorded such amount as in-process research and development expense in its results of operations for the year ended December 31, 2012. The Company similarly recorded the $1.0 million milestone paid in the year ended December 31, 2012 as a research and development expense. The Company is required to pay a profit share to Tolmar on sales of the topical products, of which the Company owed a profit share payable to Tolmar of $28.6 million and $18.1 million during the six months ended June 30, 2016 and 2015, respectively, with a corresponding charge included in the cost of revenues line in the Company’s consolidated statement of operations. During the fourth quarter of 2014, the Company paid a $2.0 million milestone related to the Diclofenac Sodium Gel 3% or Solaraze® product to Tolmar pursuant to the Tolmar Agreement. During the second quarter of 2015, the Company paid a $5.0 million milestone related to certain topical products pursuant to the Tolmar Agreement.

The Company entered into a Loan and Security Agreement with Tolmar in March 2012 (the “Tolmar Loan Agreement”), under which the Company agreed to lend to Tolmar one or more loans through December 31, 2014, in an aggregate amount not to exceed $15.0 million. The outstanding principal amount of, including any accrued and unpaid interest on, the loans under the Tolmar Loan Agreement was payable by Tolmar beginning from March 31, 2017 through March 31, 2020 or the maturity date, in accordance with the terms therein. Pursuant to the Tolmar Loan Agreement, Tolmar could prepay all or any portion of the outstanding balance of the loans prior to the maturity date without penalty or premium. In May 2016, Tolmar repaid in full the $15.0 million due to the Company under the Tolmar Loan Agreement.

Strategic Alliance Agreement with Teva

32
The Company entered into a Strategic Alliance Agreement with Teva Pharmaceutical USA, Inc. ("Teva USA"), an affiliate of Teva, which was subsequently amended ("Teva Agreement"). The Teva Agreement commits the Company to develop and manufacture, and Teva to distribute, a specified number of controlled release generic pharmaceutical products ("generic products"), each for a 10-year period. The Company is required to develop the products, obtain FDA approval to market the products, and manufacture the products for Teva. The revenue the Company earns from the sale of product under the Teva Agreement consists of Teva’s reimbursement of the Company’s manufacturing costs plus a profit share on Teva’s sales of the product to its customers. The Company invoices Teva for the manufacturing costs or products it ships to Teva and payment is due within 30 days. Teva has the right to determine all terms and conditions of the product sales to its customers. Within 30 days of the end of each calendar quarter, Teva is required to provide the Company with a report of its net sales and profits during the quarter and to pay the Company its share of the profits resulting from those sales. Net sales are Teva’s gross sales less discounts, rebates, chargebacks, returns, and other adjustments, all of which are based upon fixed percentages, except chargebacks, which are estimated by Teva and subject to a true-up reconciliation.

As of June 30, 2016, the Company was supplying Teva with oxybutynin extended release tablets (Ditropan XL® 5 mg, 10 mg and 15 mg extended release tablets); the other products under the Teva Agreement have either been returned to the Company, are being manufactured by Teva at its election, were voluntarily withdrawn from the market or the Company’s obligations to supply such product had expired or were terminated in accordance with the agreement. Refer to "Note 24. Subsequent Events" for additional information on developments related to the Teva Agreement.

**OTC Partners Alliance Agreement**

In June 2002, the Company entered into a Development, License and Supply Agreement with Pfizer, Inc., formerly Wyeth LLC ("Pfizer"), for a term of 15 years, relating to the Company’s Loratadine and Pseudoephedrine Sulfate 5 mg/120 mg 12-hour Extended Release Tablets (the "D12 Product") and Loratadine and Pseudoephedrine Sulfate 10 mg/240 mg 24-hour Extended Release Tablets for the OTC market (the "D-24 Product"). The Company previously developed the products, and is currently only responsible for manufacturing the products, and Pfizer is responsible for marketing and sale. The agreement included payments to the Company upon achievement of development milestones, as well as royalties paid to the Company by Pfizer on its sales of the product. Pfizer launched this product in May 2003 as Alavert® D-12 Hour. In February 2005, the agreement was partially cancelled with respect to the 24-hour Extended Release Product due to lower than planned sales volume. In December 2011, Pfizer and the Company entered into an agreement with L. Perrigo Company ("Perrigo"), which was subsequently amended whereby the parties agreed that the Company would supply the Company’s D-12 Product to Perrigo in the United States and its territories. The agreements with Pfizer and Perrigo are no longer a core area of the Company’s business, and the over-the-counter pharmaceutical products the Company sells to Pfizer and Perrigo under the agreements are older products which are only sold to Pfizer and to Perrigo. As noted above, the Company is currently only required to manufacture the products under its agreements with Pfizer and Perrigo. The Company recognizes profit share revenue in the period earned. On March 31, 2016, the Company entered into an asset purchase agreement with Perrigo (the "Perrigo APA") whereby the Company agreed to, among other things, sell the assets related to the D-12 Product and D-24 Product, including the ANDAs for both products, to Perrigo. Under the terms of the Perrigo APA, the Company will continue to supply the D-12 Product to Pfizer and Perrigo until the date that is the earliest of (i) the date Perrigo’s manufacturing facility is approved to manufacture the D-12 Product and (ii) December 31, 2017 (the "Supply End Date"). On the Supply End Date, the Company will transfer its supply agreement with Pfizer in its entirety to Perrigo in accordance with the Perrigo APA. The closing of the transactions covered under the Perrigo APA is currently expected to occur during the second half of 2016.

**Agreements with Valeant Pharmaceuticals International, Inc.**

In November 2008, the Company and Valeant Pharmaceuticals International, Inc., formerly Medicis Pharmaceutical Corporation ("Valeant"), entered into a Joint Development Agreement and a License and Settlement Agreement (the "Joint Development Agreement"). The Joint Development Agreement provides for the Company and Valeant to collaborate in the development of a total of five dermatology products, including four of the Company’s generic products and one branded advanced form of Valeant’s SOLODYN® product. Under the provisions of the Joint Development Agreement the Company received a $40.0 million upfront payment, paid by Valeant in December 2008. The Company has also received an aggregate of $15.0 million in milestone payments composed of two $5 million milestone payments, paid by Valeant in March 2009 and September 2009, a $2.0 million milestone payment paid by Valeant in December 2009, and a $3.0 million milestone payment paid by Valeant in March 2011. The Company has the potential to receive up to an additional $8.0 million of contingent regulatory milestone payments each of which the Company believes to be substantive, as well as the potential to receive royalty payments from sales, if any, by Valeant of its advanced form SOLODYN® brand product. Finally, to the extent the Company commercializes any of its four generic dermatology products covered by the Joint Development Agreement, the Company will pay to Valeant a gross profit share on sales of such products. The Company began selling one of the four dermatology products during the year ended December 31, 2011. As of December 31, 2014, the full amount of deferred revenue under the Joint Development Agreement was recognized.
The Joint Development Agreement results in three items of revenue for the Company, as follows:

(1) **Research & Development Services.** Revenue received from the provision of research and development services including the $40.0 million upfront payment and the $12.0 million of milestone payments received prior to January 1, 2011, have been deferred and are being recognized on a straight-line basis over the estimated period of performance of the research and development services. During the three month period ended March 31, 2013, the Company extended the revenue recognition period for the Joint Development Agreement from the previous recognition period ending in November 2013 to December 2014, due to changes in the estimated timing of completion of certain research and development activities. This change was made on a prospective basis, and resulted in a reduced periodic amount of revenue recognized in current and future periods. Revenue from the remaining $8.0 million of contingent milestone payments, including the $3.0 million received from Valeant in March 2011, will be recognized using the Milestone Method of accounting. Revenue recognized under the Joint Development Agreement is included in “Note 23. Supplementary Financial Information,” in the line item captioned “Other Revenues.”

(2) **Royalty Fees Earned - Valeant’s Sale of Advanced Form SOLODYN® (Brand) Product.** Under the Joint Development Agreement, the Company granted Valeant a license for the advanced form of the SOLODYN® product, with the Company receiving royalty fee income under such license for a period ending eight years after the first commercial sale of the advanced form SOLODYN® product. Commercial sales of the new SOLODYN® product, if any, are expected to commence upon FDA approval of Valeant’s NDA. The royalty fee income, if any, from the new SOLODYN® product, will be recognized by the Company as current period revenue when earned.

(3) **Accounting for Sales of the Company’s Four Generic Dermatology Products.** Upon FDA approval of the Company’s ANDA for each of the four generic products covered by the Joint Development Agreement, the Company will have the right (but not the obligation) to begin manufacture and sale of its four generic dermatology products. The Company sells its manufactured generic products to all Impax Generics division customers in the ordinary course of business through its Impax Generics Product sales channel. The Company accounts for the sale, if any, of the generic products covered by the Joint Development Agreement as current period revenue according to the Company’s revenue recognition policy applicable to its Impax Generics products. To the extent the Company sells any of the four generic dermatology products covered by the Joint Development Agreement, the Company pays Valeant a gross profit share, with such profit share payments accounted for as a current period cost of revenues in the consolidated statement of operations.

*Development and Co-Promotion Agreement with Endo Pharmaceuticals Inc.*

In June 2010, the Company and Endo Pharmaceuticals, Inc. (“Endo”) entered into a Development and Co-Promotion Agreement (“Endo Agreement”) under which the Company and Endo agreed to collaborate in the development and commercialization of a next-generation advanced form of the Company’s lead branded product candidate (“Endo Agreement Product”). The Endo Agreement was terminated upon mutual agreement by the parties effective December 23, 2015. Under the provisions of the Endo Agreement, in June 2010, Endo paid to the Company a $10.0 million upfront payment. Prior to termination of the agreement, the Company also had the potential to receive up to an additional $30.0 million of contingent milestone payments.

Prior to the termination of the Endo Agreement, the Company had recognized the $10.0 million upfront payment as revenue on a straight-line basis over a period of 112 months, which was the estimated expected period of performance of research and development activities under the Endo Agreement, commencing with the June 2010 effective date of the Endo Agreement and ending in September 2019, the estimated date of FDA approval of the Company's NDA for the Endo Agreement Product. The FDA approval of the Endo Agreement Product NDA represented the end of the Company’s expected period of performance, as the Company would have had no further contractual obligation to perform research and development activities under the Endo Agreement, and therefore the earnings process would have been completed on such date. There was no deferred revenue under the Endo Agreement as of June 30, 2016 and December 31, 2015. Revenue recognized under the Endo Agreement was reported in “Note 23. Supplementary Financial Information” in the line item captioned “Other Revenues”.

The Company and Endo also entered into a Settlement and License Agreement in June 2010 (the “Endo Settlement Agreement”) pursuant to which Endo agreed to make a payment to the Company should prescription sales of Opana® ER (as defined in the Endo Settlement Agreement) fall below a predetermined contractual threshold in the quarter immediately prior to the Company launching a generic version of Opana® ER. As a result of the Company’s launch of its generic version of Opana ER in January 2013 and Endo’s prescription sales of Opana ER during the fourth quarter of 2012, the Company recorded a $102.0 million settlement gain during the three month period ended March 31, 2013. Payment of the $102.0 million settlement was received from Endo in April 2013. In May 2016, Endo filed suit against the Company alleging that the Company breached the Endo Settlement Agreement with respect to the Company’s marketed generic version of Opana® ER products. Refer to “Note 21. Legal and Regulatory Matters” for a description of the legal proceeding related to the suit.
In January 2012, the Company entered into the AZ Agreement with AstraZeneca and the parties subsequently entered into a First Amendment to the AZ Agreement dated May 31, 2016 (as amended, the “AZ Amendment”). Under the terms of the AZ Agreement, AstraZeneca granted to the Company an exclusive license to commercialize the tablet, orally disintegrating tablet and nasal spray formulations of Zomig® (zolmitriptan) products for the treatment of migraine headaches in the United States and in certain U.S. territories, except during an initial transition period when AstraZeneca fulfilled all orders of Zomig® products on the Company’s behalf and AstraZeneca paid to the Company the gross profit on such Zomig® products. The Company is obligated to fulfill certain minimum requirements with respect to the promotion of currently approved Zomig® products as well as other dosage strengths of such products approved by the FDA in the future. The Company may, but has no obligation to, develop and commercialize additional products containing zolmitriptan and additional indications for Zomig®, subject to certain restrictions as set forth in the AZ Agreement. Subject to the terms of the AZ Amendment, the Company will be responsible for conducting clinical studies and preparing regulatory filings related to the development of any such additional products and would bear all related costs. During the term of the AZ Agreement, AstraZeneca will continue to be the holder of the NDA for existing Zomig® products, as well as any future dosage strengths thereof approved by the FDA, and will be responsible for certain regulatory and quality-related activities for such Zomig® products. AstraZeneca will manufacture and supply Zomig® products to the Company and the Company will purchase its requirements of Zomig® products from AstraZeneca until a date determined in the AZ Agreement. Thereafter, AstraZeneca may terminate its supply obligations upon certain conditions and subject to customary reductions and other terms and conditions set forth in the AZ Agreement. The Company is also obligated to pay AstraZeneca royalties on net sales of branded Zomig® products during the specified transition period. The Company received transition payments from AstraZeneca aggregating $43.6 million during 2012. Beginning in January 2013, the Company was obligated to pay AstraZeneca tiered royalties on net sales of branded Zomig® products, depending on brand exclusivity and subject to customary reductions and other terms and conditions set forth in the AZ Agreement. The Company is also obligated to pay AstraZeneca royalties after a certain specified date based on gross profit from sales of authorized generic versions of the Zomig® products subject to certain terms and conditions set forth in the AZ Amendment. In May 2013, the Company’s exclusivity period for branded Zomig® tablets and orally disintegrating tablets expired and the Company launched authorized generic versions of those products in the United States. As discussed above, pursuant to the AZ Amendment, the total royalty payments payable by the Company to AstraZeneca on net sales of Zomig® products under the AZ Agreement will be reduced by certain specified amounts beginning from the quarter ended June 30, 2016 and through the quarter ended December 31, 2020, with such reduced royalty amounts totaling an aggregate amount of $30.0 million. In the event the royalty reduction amounts exceed the royalty payments payable by the Company to AstraZeneca pursuant to the AZ Agreement in any given quarter, AstraZeneca will be required to pay the Company an amount equal to the difference between the royalty reduction amount and the royalty payment payable by the Company to AstraZeneca. The Company’s commitment to perform the PREA Study may be terminated, without penalty, under certain circumstances as set forth in the AZ Amendment.

Under the terms of the AZ Agreement, AstraZeneca was required to make payments to the Company representing 100% of the gross profit on sales of AstraZeneca-labeled Zomig® products during the specified transition period. The Company received transition payments from AstraZeneca aggregating $43.6 million during 2012. Beginning in January 2013, the Company obligated to pay AstraZeneca tiered royalties on net sales of branded Zomig® products, depending on brand exclusivity and subject to customary reductions and other terms and conditions set forth in the AZ Agreement. The Company is also obligated to pay AstraZeneca royalties after a certain specified date based on gross profit from sales of authorized generic versions of the Zomig® products subject to certain terms and conditions set forth in the AZ Agreement. In May 2013, the Company’s exclusivity period for branded Zomig® tablets and orally disintegrating tablets expired and the Company launched authorized generic versions of those products in the United States. As discussed above, pursuant to the AZ Amendment, the total royalty payments payable by the Company to AstraZeneca on net sales of Zomig® products under the AZ Agreement will be reduced by certain specified amounts beginning from the quarter ended June 30, 2016 and through the quarter ended December 31, 2020, with such reduced royalty amounts totaling an aggregate amount of $30.0 million. The Company owed a royalty payable to AstraZeneca of $7.4 million and $7.9 million during the six months ended June 30, 2016 and 2015, respectively, with a corresponding charge included in the cost of revenues line on the consolidated statements of operations.

Agreement with DURECT Corporation

During the three month period ended March 31, 2014, the Company entered into an agreement with DURECT Corporation (“Durect”) granting the Company the exclusive worldwide rights to develop and commercialize DURECT’s investigational transdermal bupivacaine patch for the treatment of pain associated with post-herpetic neuralgia (PHN), referred to by the Company as IPX239. The Company paid Durect a $2.0 million up-front payment upon signing of the agreement which was recognized immediately as research and development expense. The Company has the potential to pay up to $61.0 million in additional contingent milestone payments upon the achievement of predefined development and commercialization milestones. If IPX239 is commercialized, Durect would also receive a tiered royalty on product sales.

Amedra Product Acquisition Agreement with Teva Pharmaceuticals USA, Inc.

35
In August 2013, the Company, through its Amedra Pharmaceuticals subsidiary, entered into a product acquisition agreement (the “Teva Product Acquisition Agreement”) with Teva Pharmaceuticals USA, Inc. (“Teva”) pursuant to which the Company acquired the assets (including the ANDA and other regulatory materials) and related liabilities related to Teva’s mebendazole tablet product in all dosage forms. During the first quarter of 2016, the Company recognized $3.5 million of milestone payments due to Teva under the terms of the agreement related to the FDA’s approval and the Company’s subsequent launch of Emverm® (mebendazole) 100 mg chewable tablets. The Company is also obligated to pay Teva a royalty payment based on net sales of Emverm®, including a specified annual minimum royalty payment, subject to customary reductions and the other terms and conditions set forth in the Teva Product Acquisition Agreement.

20. COMMITMENTS AND CONTINGENCIES

Executive Employment Agreements

The Company is a party to employment and separation agreements with certain members of its executive management team that provide for severance and other payments following termination of their employment for various reasons.

Lease Agreements

The Company leases land, office space, manufacturing, warehouse and research and development facilities, and equipment under non-cancelable operating leases expiring at various dates through December 2026.

Purchase Order Commitments

As of June 30, 2016, the Company had $82.7 million of open purchase order commitments, primarily for raw materials. The terms of these purchase order commitments are generally less than one year in duration.

Taiwan Facility Expansion

The Company has entered into several contracts related to ongoing expansion activities at its Taiwan manufacturing facility. As of June 30, 2016, the Company had remaining obligations under these contracts of $1.4 million.

21. LEGAL AND REGULATORY MATTERS

Patent Litigation

There is substantial litigation in the pharmaceutical, biological, and biotechnology industries with respect to the manufacture, use, and sale of new products which are the subject of conflicting patent and intellectual property claims. One or more patents often cover the brand name products for which the Company is developing generic versions and the Company typically has patent rights covering the Company’s branded products.

Under federal law, when a drug developer files an ANDA for a generic drug seeking approval before expiration of a patent, which has been listed with the FDA as covering the brand name product, the developer must certify its product will not infringe the listed patent(s) and/or the listed patent is invalid or unenforceable (commonly referred to as a “Paragraph IV” certification). Notices of such certification must be provided to the patent holder, who may file a suit for patent infringement within 45 days of the patent holder’s receipt of such notice. If the patent holder files suit within the 45 days period, the FDA can review and approve the ANDA, but is prevented from granting final marketing approval of the product until a final judgment in the action has been rendered in favor of the generic drug developer, or 30 months from the date the notice was received, whichever is sooner. The Company’s generic products division is typically subject to patent infringement litigation brought by branded pharmaceutical manufacturers in connection with the Company’s Paragraph IV certifications seeking an order delaying the approval of the Company’s ANDA until expiration of the patent(s) at issue in the litigation. Likewise, the Company’s branded products division is currently involved in patent infringement litigation against generic drug manufacturers who have filed Paragraph IV certifications to market their generic drugs prior to expiration of the Company’s patents at issue in the litigation.

The uncertainties inherent in patent litigation make the outcome of such litigation difficult to predict. For the Company’s generic products division, the potential consequences in the event of an unfavorable outcome in such litigation include delaying launch of its generic products until patent expiration. If the Company were to launch its generic product prior to successful resolution of a patent litigation, the Company could be liable for potential damages measured by the profits lost by the branded product manufacturer rather than the profits earned by the Company if we are found to infringe a valid, enforceable patent. For the Company’s branded products division, an unfavorable outcome may significantly accelerate generic competition ahead of expiration of the patents covering the Company’s branded products. All such litigation typically involves significant expense.
The Company is generally responsible for all of the patent litigation fees and costs associated with current and future products not covered by its alliance and collaboration agreements. The Company has agreed to share legal expenses with respect to third-party and Company products under the terms of certain of the alliance and collaboration agreements. The Company records the costs of patent litigation as expense in the period when incurred for products it has developed, as well as for products which are the subject of an alliance or collaboration agreement with a third-party.

Although the outcome and costs of the asserted and unasserted claims is difficult to predict, based on the information presently known to management, the Company does not currently expect the ultimate liability, if any, for such matters to have a material adverse effect on its business, financial condition, results of operations, or cash flows.

**Patent Infringement Litigation**

*Endo Pharmaceuticals Inc. and Grunenthal GmbH v. Impax Laboratories, Inc. and ThoRx Laboratories, Inc. (Oxymorphone hydrochloride); Endo Pharmaceuticals Inc. and Grunenthal GmbH v. Impax Laboratories, Inc. (Oxymorphone hydrochloride)*

In November 2012, Endo Pharmaceuticals, Inc. and Grunenthal GmbH (collectively, “Endo”) filed suit against ThoRx Laboratories, Inc., a wholly owned subsidiary of the Company (“ThoRx”), and the Company in the U.S. District Court for the Southern District of New York alleging patent infringement based on the filing of ThoRx’s ANDA relating to Oxymorphone hydrochloride, Extended Release tablets, 5 mg, 7.5 mg, 10 mg, 15 mg, 20 mg, 30 mg and 40 mg, generic to Opana ER®. In January 2013, Endo filed a separate suit against the Company in the U.S. District Court for the Southern District of New York alleging patent infringement based on the filing of the Company’s ANDA relating to the same products. ThoRx and the Company filed an answer and counterclaims to the November 2012 suit and the Company filed an answer and counterclaims with respect to the January 2013 suit. A bench trial was completed in April 2015. In June 2016, the Court entered an amended judgment in both cases that the products described in the Company’s and ThoRx’s ANDAs would, if marketed, infringe certain claims of the patents asserted by Endo and Grunenthal. The Court also found that the asserted claims of patents owned by Endo were not invalid, but that the asserted claims of patents owned by Grunenthal were invalid. As a result, the Court enjoined the Company and ThoRx from marketing their products until expiration of the Endo patents in 2023. The Company and ThoRx are appealing the Court’s judgment.

In November 2014, Endo Pharmaceuticals Inc. and Mallinckrodt LLC filed suit against the Company in the U.S. District Court for the District of Delaware making additional allegations of patent infringement based on the filing of the Company’s Oxymorphone hydrochloride ANDA described above. Also in November 2014, Endo and Mallinckrodt filed a separate suit in the U.S. District Court for the District of Delaware making additional allegations of patent infringement based on the filing of the ThoRx Oxymorphone hydrochloride ANDA described above. ThoRx and the Company filed an answer and counterclaim to those suits in which they are named as a defendant. The cases are currently stayed pending the outcome of further proceedings in related cases in these District of Delaware cases and/or an appellate decision in the New York proceedings described above.

In May 2016, Endo Pharmaceuticals Inc. filed suit against the Company in the U.S. District Court for the District of New Jersey, alleging that the Company’s marketed oxymorphone hydrochloride tablets infringe certain patents owned by Endo. Endo’s complaint also alleges that the Company and Endo entered into a settlement and license agreement with respect to these products, but that the Company later breached that contract and breached its implied duty of good faith and fair dealing with respect to that agreement. The Company filed a motion to dismiss the complaint on July 11, 2016 and Endo filed an amended complaint on August 1, 2016. The Company has not yet responded to the amended complaint.

*Impax Laboratories Inc., et al. v. Lannett Holdings, Inc. and Lannett Company (Zomig®)*


*Impax Laboratories Inc., et al. v. Actavis Laboratories, Inc. and Actavis Pharma Inc. (Rytary ®)*

In September 2015, the Company filed suit against Actavis Laboratories, Inc. and Actavis Pharma Inc. (collectively, “Actavis”) in the United States District Court for the District of New Jersey, alleging patent infringement based on the filing of the Actavis ANDA relating to carbidopa and levodopa extended release capsules, generic to Rytary ®. Actavis filed an answer and counterclaims on November 19, 2015. Discovery is proceeding. A claim construction hearing is set for November/December 2016 and trial is scheduled for September 2017.

**Other Litigation Related to the Company’s Business**
From July 2013 to January 2016, 18 complaints were filed as class actions on behalf of direct and indirect purchasers, as well as by certain direct purchasers against manufacturers of the brand drug Solodyn® and its generic equivalents, including the Company.

On July 22, 2013, Plaintiff United Food and Commercial Workers Local 1776 & Participating Employers Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On July 23, 2013, Plaintiff Rochester Drug Co-Operative, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 1, 2013, Plaintiff International Union of Operating Engineers Local 132 Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Northern District of California on behalf of itself and others similarly situated. On August 29, 2013, this Plaintiff withdrew its complaint from the United States District Court for the Northern District of California, and on August 30, 2013, re-filed the same complaint in the United States Court for the Eastern District of Pennsylvania, on behalf of itself and others similarly situated.

On August 9, 2013, Plaintiff Local 274 Health & Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 12, 2013, Plaintiff Sheet Metal Workers Local No. 25 Health & Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 27, 2013, Plaintiff Fraternal Order of Police, Fort Lauderdale Lodge 31, Insurance Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 29, 2013, Plaintiff Heather Morgan, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 30, 2013, Plaintiff Plumbers & Pipefitters Local 178 Health & Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On September 9, 2013, Plaintiff Ahold USA, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the District of Massachusetts on behalf of itself and others similarly situated.

On September 24, 2013, Plaintiff City of Providence, Rhode Island, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Arizona on behalf of itself and others similarly situated.

On October 2, 2013, Plaintiff International Union of Operating Engineers Stationary Engineers Local 39 Health & Welfare Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Massachusetts on behalf of itself and others similarly situated.

On October 7, 2013, Painters District Council No. 30 Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Massachusetts on behalf of itself and others similarly situated.

On October 25, 2013, Plaintiff Man-U Service Contract Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On March 13, 2014, Plaintiff Allied Services Division Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Massachusetts on behalf of itself and others similarly situated.

On March 19, 2014, Plaintiff NECA-IBEW Welfare Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Massachusetts on behalf of itself and others similarly situated.

On February 25, 2014, the United States Judicial Panel on Multidistrict Litigation ordered the pending actions transferred to the District of Massachusetts for coordinated pretrial proceedings, as In Re Solodyn (Minocycline Hydrochloride) Antitrust Litigation.

On March 26, 2015, Walgreen Co., The Kruger Co., Safeway Inc., HEB Grocery Company L.P., Albertson’s LLC, direct purchasers, filed a separate complaint in the United States District Court for the Middle District of Pennsylvania. On April 8, 2015, the Judicial Panel on Multi-District Litigation ordered the action be transferred to the District of Massachusetts, to be coordinated or consolidated with the coordinated proceedings. The original complaint filed by the plaintiffs asserted claims only against defendant Medicis. On October 5, 2015, the plaintiffs filed an amended complaint asserting claims against the Company and the other generic defendants.
On April 16, 2015, Rite Aid Corporation and Rite Aid Hqtrs. Corp, direct purchasers, filed a separate complaint in the United States District Court for the Middle District of Pennsylvania. On May 1, 2015, the Judicial Panel on Multi-District Litigation ordered the action be transferred to the District of Massachusetts, to be coordinated or consolidated with the coordinated proceedings. The original complaint filed by the plaintiffs asserted claims only against defendant Medicis. On October 5, 2015, the plaintiffs filed an amended complaint asserting claims against the Company and the other generic defendants.

On January 25, 2016, CVS Pharmacy, Inc., a direct purchaser, filed a separate complaint in the United States District Court for the Middle District of Pennsylvania. On February 11, 2016, the Judicial Panel on Multi-District Litigation ordered the action to be transferred to the District of Massachusetts to be coordinated or consolidated with the coordinated proceedings.

The consolidated amended complaints allege that Medicis engaged in anticompetitive schemes by, among other things, filing frivolous patent litigation lawsuits, submitting frivolous Citizen Petitions, and entering into anticompetitive settlement agreements with several generic manufacturers, including the Company, to delay generic competition of Solodyn® and in violation of state and federal antitrust laws. Plaintiffs seek, among other things, unspecified monetary damages and equitable relief, including disgorgement and restitution. On August 14, 2015, the Court granted in part and denied in part defendants’ motion to dismiss the consolidated amended complaints. Discovery is ongoing. No trial date has been scheduled.

Opana ER® FTC Antitrust Suit

As previously disclosed, on February 25, 2014, the Company received a Civil Investigative Demand ("CID") from the FTC concerning its investigation into the drug Opana® ER and its generic equivalents. According to the FTC, the investigation relates to whether Endo Pharmaceuticals, Inc. ("Endo") and the Company have engaged or are engaged in unfair methods of competition in or affecting commerce by (i) entering into agreements regarding Opana® ER or its generic equivalents and/or (ii) engaging in other conduct regarding the regulatory filings, sale or marketing of Opana® ER or its generic equivalents. On March 30, 2016, the FTC filed a complaint against the Company, Endo, and others in the United States District Court for the Eastern District of Pennsylvania, alleging that the Company and Endo violated antitrust laws when they entered into a June 2010 co-promotion and development agreement and a June 2010 settlement agreement that resolved patent litigation in connection with the submission of the Company’s ANDA for generic original Opana® ER. In July 2016, the defendants filed a motion to dismiss the complaint, and a motion to sever the claims regarding Opana® ER from claims with respect to a separate settlement agreement that is challenged by FTC. Those motions are pending.

Opana ER® Antitrust Class Actions

From June 2014 to February 2016, 14 complaints were filed as class actions on behalf of direct and end-payor (indirect) purchasers, as well as by certain direct purchasers, against the manufacturer of the brand drug Opana ER® and the Company.

On June 4, 2014, Plaintiff Rochester Drug Co-Operative, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 4, 2014, Plaintiff Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 6, 2014, Plaintiff Value Drug Company, a direct purchaser, filed a class action complaint in the United States District Court for the Northern District of California on behalf of itself and others similarly situated. On June 26, 2014, this Plaintiff withdrew its complaint from the United States District Court for the Northern District of California, and on July 16, 2014, re-filed the same complaint in the United States District Court for the Northern District of Illinois, on behalf of itself and others similarly situated.

On June 19, 2014, Plaintiff Wisconsin Masons’ Health Care Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Northern District of Illinois on behalf of itself and others similarly situated.

On July 17, 2014, Plaintiff Massachusetts Bricklayers, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On August 11, 2014, Plaintiff Pennsylvania Employees Benefit Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Northern District of Illinois on behalf of itself and others similarly situated.

On September 19, 2014, Plaintiff Meijer Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Northern District of Illinois on behalf of itself and others similarly situated.

On November 17, 2014, Louisiana Health Service & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana, an indirect purchaser, filed a class action complaint in the United Stated District Court for the Middle District of Louisiana on behalf of itself and others similarly situated.

On December 19, 2014, Plaintiff Kim Mahaffay, an indirect purchaser, filed a class action complaint in the Superior Court of the State of California, Alameda County, on behalf of herself and others similarly situated. On January 27, 2015, the Defendants removed the action to the United States District Court for the Northern District of California.

On January 12, 2015, Plaintiff Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Northern District of Illinois on behalf of itself and others similarly situated.

On December 12, 2014, the United States Judicial Panel on Multidistrict Litigation ordered the pending actions transferred to the Northern District of Illinois for coordinated pretrial proceedings, as In Re Opana ER Antitrust Litigation.


On April 23, 2015, Rite Aid Corporation and Rite Aid Hdqtrs. Corp, direct purchasers, filed a separate complaint in the United States District Court for the Northern District of Illinois.

In each case, the complaints allege that Endo engaged in an anticompetitive scheme by, among other things, entering into an anticompetitive settlement agreement with the Company to delay generic competition of Opana ER® and in violation of state and federal antitrust laws. Plaintiffs seek, among other things, unspecified monetary damages and equitable relief, including disgorgement and restitution. Consolidated amended complaints were filed on May 4, 2015 by direct purchaser plaintiffs and end-payor (indirect) purchaser plaintiffs.

On July 3, 2015, defendants filed motions to dismiss the consolidated amended complaints, as well as the complaints of the “Opt-Out Plaintiffs” (Walgreen Co., The Kruger Co., Safeway Inc., HEB Grocery Company L.P., Albertson’s LLC, Rite Aid Corporation and Rite Aid Hdqtrs. Corp.).

On February 1, 2016, CVS Pharmacy, Inc. filed a complaint in the United States District Court for the Northern District of Illinois. The parties agreed that CVS Pharmacy, Inc. would be bound by the court’s ruling on the defendants’ motion to dismiss the Opt-Out Plaintiffs’ complaints.

On February 10, 2016, the court granted in part and denied in part defendants’ motion to dismiss the end-payor purchaser plaintiffs’ consolidated amended complaint, and denied defendants’ motion to dismiss the direct purchaser plaintiffs’ consolidated amended complaint. The end-payor purchaser plaintiffs have filed a second consolidated amended complaint and the Company has moved to dismiss certain state law claims.

On February 25, 2016, the court granted defendants’ motion to dismiss the Opt-Out Plaintiffs’ complaints, with leave to amend. The Opt-Out Plaintiffs and CVS Pharmacy, Inc. have filed amended complaints and the Company has filed its answer.

Discovery is ongoing. No trial date has been scheduled.

Civil Investigation Demand from the Attorney General of the State of Alaska

On February 10, 2015, the Company received three CIDs from the Office of the Attorney General of the State of Alaska (“Alaska AG”) concerning its investigations into the drugs Adderall XR®, Effexor XR® and Opana® ER (each a “Product” and collectively, the “Products”) and their generic equivalents. According to the Alaska AG, the investigation is to determine whether the Company may have violated Alaskan state law by entering into settlement agreements with the respective brand name manufacturer for each of the foregoing Products that delayed generic entry of such Product into the marketplace. The Company has cooperated with the Alaska AG in producing documents and information in response to the CIDs. To the knowledge of the Company, no proceedings have been initiated against the Company at this time, however no assurance can be given as to the timing or outcome of this investigation.

United States Department of Justice Investigations

Previously on November 6, 2014, the Company disclosed that one of its sales representatives received a grand jury subpoena from the Antitrust Division of the United States Justice Department (the “Justice Department”). In connection with this same investigation, on March 13, 2015, the Company received a grand jury subpoena from the Justice Department requesting the production of information and documents regarding the sales, marketing, and pricing of certain generic prescription medications. In particular, the Justice Department’s investigation currently focuses on four generic medications: digoxin tablets, terbutaline sulfate tablets, prilocaine/lidocaine cream, and calcipotriene topical solution. The Company has been cooperating and intends to continue cooperating with the investigation. However, no assurance can be given as to the timing or outcome of the investigation.
On July 14, 2014, the Company received a subpoena and interrogatories (the “Subpoena”) from the State of Connecticut Attorney General (“Connecticut AG”) concerning its investigation into sales of the Company’s generic product, digoxin. According to the Connecticut AG, the investigation is to determine whether anyone engaged in a contract, combination or conspiracy in restraint of trade or commerce which has the effect of (i) fixing, controlling or maintaining prices or (ii) allocating or dividing customers or territories relating to the sale of digoxin in violation of Connecticut state antitrust law. The Company intends to cooperate with the Connecticut AG in producing documents and information in response to the Subpoena. To the knowledge of the Company, no proceedings by the Connecticut AG have been initiated against the Company at this time, however no assurance can be given as to the timing or outcome of this investigation.

In re Generic Digoxin and Doxycycline Class Action

From March 2016 to July 2016, 19 complaints were filed as class actions on behalf of direct and indirect purchasers against manufacturers of generic digoxin and doxycycline and the Company.

On March 2, 2016, Plaintiff International Union of Operating Engineers Local 30 Benefits Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated. The plaintiff filed an amended complaint on June 9, 2016.

On March 25, 2016, Plaintiff Tulsa Firefighters Health and Welfare Trust, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On March 25, 2016, Plaintiff NECA-IBEW Welfare Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On April 4, 2016, Plaintiff Pipe Trade Services MN, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On April 25, 2016, Plaintiff Edward Carpinelli, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On April 27, 2016, Plaintiff Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 2, 2016, Plaintiff Nina Diamond, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 5, 2016, Plaintiff UFCW Local 1500 Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 6, 2016, Plaintiff Minnesota Laborers Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 12, 2016, Plaintiff The City of Providence, Rhode Island, an indirect purchaser, filed a class action complaint in the United States District Court for the District of Rhode Island on behalf of itself and others similarly situated.

On May 18, 2016, Plaintiff KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 19, 2016, Plaintiff Philadelphia Federation of Teachers Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.
On June 8, 2016, Plaintiff United Food & Commercial Workers and Employers Arizona Health and Welfare Trust, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 17, 2016, Plaintiff Ottis McCrary, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 20, 2016, Plaintiff Rochester Drug Co-Operative, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 27, 2016, Plaintiff César Castillo Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On June 29, 2016, Plaintiff Plumbers & Pipefitters Local 33 Health and Welfare Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On July 1, 2016, Plaintiff Plumbers & Pipefitters Local 178 Health and Welfare Trust Fund, an indirect purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On July 15, 2016, Plaintiff Ahold USA, Inc., a direct purchaser, filed a class action complaint in the United States District Court for the Eastern District of Pennsylvania on behalf of itself and others similarly situated.

On May 19, 2016, several indirect purchaser plaintiffs filed a motion with the Judicial Panel on Multidistrict Litigation to transfer and consolidate the actions in the United States District Court for the Eastern District of Pennsylvania. The Judicial Panel ordered the actions consolidated in the Eastern District of Pennsylvania and ordered that the actions be renamed “In re Generic Digoxin and Doxycycline Antitrust Litigation”.

**AWP Actions**

On December 30, 2015, Plumbers’ Local Union No. 690 Health Plan and others similarly situated filed a class action against several generic drug manufacturers, including the Company, in the Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania, Civil Trial Division, alleging that the Company and others violated the law, including the Pennsylvania Unfair Trade Practices and Consumer Protection law, by inflating the Average Wholesale Price (“AWP”) of certain generic drugs. The case has since been removed to federal court in the United States District Court for the Eastern District of Pennsylvania. By virtue of an amended complaint filed on March 29, 2016, the suit has been amended to comprise a nationwide class of third party payors that allegedly reimbursed or purchased certain generic drugs based on AWP and to assert causes of action under the laws of other states in addition to Pennsylvania. On May 17, 2016, this case was stayed.

On February 5, 2016, Delaware Valley Health Care Coalition filed a lawsuit based on substantially similar allegations in the Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania, Civil Trial Division that seeks declaratory judgment. On May 20, 2016, this case was stayed pending resolution of the federal court action described above.

**CID from the U.S. Attorney Office, Southern District of New York**

On March 8, 2016, the Company received a CID from the U.S. Attorney Office, Southern District of New York, Civil Frauds Unit. The CID requests information and documents relating to the Company and any pharmacy benefit manager (“PBM”) concerning Zomig®, including any contracts between the Company and PBMs, as well as services performed by and payments to the PBMs pursuant to those contracts. The Company intends to cooperate with the U.S. Attorney Office in response to the CID. To the knowledge of the Company, no proceedings by the U.S. Attorney Office have been initiated against the Company at this time; however, no assurance can be given as to the timing or outcome of this investigation.

**Impax Laboratories, Inc. v. Turing Pharmaceuticals AG**

On May 2, 2016, the Company filed suit against Turing Pharmaceuticals AG ("Turing") in the United States District Court for the Southern District of New York alleging breach of the terms of the contract by which Turing purchased from the Company the right to sell the drug Daraprim®, as well as the right to sell certain Daraprim® inventory (the “Purchase Agreement”). Specifically, the Company seeks (i) a declaratory judgment that the Company may revoke Turing’s right to sell Daraprim® under the Company’s labeler code and national drug codes; (ii) specific performance to require Turing to comply with its obligations under the Purchase Agreement for past due reports and for reports going forward; and (iii) money damages to remedy Turing’s
failure to reimburse the Company for chargebacks and Medicaid rebate liability when due, currently in excess of $30 million, and for future amounts that may be due. Turing has filed its answer and a counterclaim against the Company alleging breach of contract and breach of the duty of good faith and fair dealing. Discovery is ongoing and is scheduled to be completed by September 15, 2016. No trial date has been set.

22. SEGMENT INFORMATION

The Company has two reportable segments, Impax Generics and Impax Specialty Pharma. Impax Generics develops, manufactures, sells, and distributes generic pharmaceutical products, primarily through the following sales channels: the Impax Generics sales channel for sales of generic prescription products directly to wholesalers, large retail drug chains, and others; the Private Label Product sales channel for generic over-the-counter and prescription products sold to unrelated third-party customers who, in turn, sell the products under their own label; the Rx Partner sales channel for generic prescription products sold through unrelated third-party pharmaceutical entities under their own label pursuant to alliance agreements; and the OTC Partner sales channel for over-the-counter products sold through unrelated third-party pharmaceutical entities under their own labels pursuant to alliance and supply agreements. Revenues from the “Impax Generics” sales channel and the “Private Label” sales channel are reported under the caption “Impax Generics sales, net” in “Note 23. Supplementary Financial Information.” Revenues from the “OTC Partner” sales channel are reported under the caption “Other Revenues” in “Note 23. Supplementary Financial Information.”

Impax Specialty Pharma is engaged in the development, sale and distribution of proprietary brand pharmaceutical products that the Company believes represent improvements to already-approved pharmaceutical products addressing central nervous system (“CNS”) disorders and other select specialty segments. Impax Specialty Pharma currently has one internally developed branded pharmaceutical product, Rytary® (IPX066), an extended release oral capsule formulation of carbidopa-levodopa for the treatment of Parkinson’s disease, post-encephalitic parkinsonism, and parkinsonism that may follow carbon monoxide intoxication and/or manganese intoxication, which was approved by the FDA on January 7, 2015 and which the Company launched in April 2015. In November 2015, the European Commission granted marketing authorization for NUMIENT™ (IPX066) (referred to as Rytary® in the United States). The review of the NUMIENT™ application was conducted under the centralized licensing procedure as a therapeutic innovation, and authorization is applicable in all 28 member states of the European Union, as well as Iceland, Liechtenstein and Norway. Impax Specialty Pharma is also engaged in the sale and distribution of four other branded products including Zomig® (zolmitriptan) products, indicated for the treatment of migrane headaches, under the terms of the AZ Agreement with AstraZeneca in the United States and in certain U.S. territories, and Emverm® (mebendazole) 100 mg chewable tablets, indicated for the treatment of pinworm, whipworm, common roundworm, common hookworm, and American hookworm in single or mixed infections.

Revenues from Impax-labeled branded products are reported under the caption “Impax Specialty Pharma sales, net” in “Note 23. Supplementary Financial Information.” Finally, the Company generated revenue in Impax Specialty Pharma from research and development services provided under a development and license agreement with another unrelated third-party pharmaceutical company (which was terminated by mutual agreement of the parties effective December 23, 2015), and reports such revenue under the caption “Other Revenues” in “Note 23. Supplementary Financial Information.” Impax Specialty Pharma also has a number of product candidates that are in varying stages of development.

The Company’s chief operating decision maker evaluates the financial performance of the Company’s segments based upon segment income (loss) before income taxes. Items below income (loss) from operations are not reported by segment, since they are excluded from the measure of segment profitability reviewed by the Company’s chief operating decision maker. Additionally, general and administrative expenses, certain selling expenses, certain litigation settlements, and non-operating income and expenses are included below in “Corporate and Other.” The Company does not report balance sheet information by segment since it is not reviewed by the Company’s chief operating decision maker. The accounting policies for the Company’s segments are the same as those described above in the discussion of “Revenue Recognition” in “Note 4. Summary of Significant Accounting Policies.” The Company has no inter-segment revenue.
The tables below present segment information reconciled to total Company financial results, with segment operating income or loss including gross profit less direct research and development expenses and direct selling expenses as well as any litigation settlements, to the extent specifically identified by segment (in thousands):

<table>
<thead>
<tr>
<th>Three Months Ended June 30, 2016</th>
<th>Impax Generics</th>
<th>Impax Specialty Pharma</th>
<th>Corporate and Other</th>
<th>Total Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues, net</td>
<td>$121,695</td>
<td>$50,895</td>
<td>$—</td>
<td>$172,590</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>$84,339</td>
<td>$15,267</td>
<td>$—</td>
<td>$99,606</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>$1,565</td>
<td>$16,133</td>
<td>$27,210</td>
<td>$44,908</td>
</tr>
<tr>
<td>Research and development</td>
<td>$17,089</td>
<td>$4,657</td>
<td>$—</td>
<td>$21,746</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>$155</td>
<td>$1,774</td>
<td>$—</td>
<td>$1,929</td>
</tr>
<tr>
<td>Income (loss) before provision for income taxes</td>
<td>$18,547</td>
<td>$13,064</td>
<td>$(35,561)</td>
<td>$(3,950)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Three Months Ended June 30, 2015</th>
<th>Impax Generics</th>
<th>Impax Specialty Pharma</th>
<th>Corporate and Other</th>
<th>Total Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues, net</td>
<td>$174,679</td>
<td>$39,503</td>
<td>$—</td>
<td>$214,182</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>$110,767</td>
<td>$18,564</td>
<td>$—</td>
<td>$129,331</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>$7,284</td>
<td>$12,912</td>
<td>$28,113</td>
<td>$48,309</td>
</tr>
<tr>
<td>Research and development</td>
<td>$12,891</td>
<td>$4,104</td>
<td>$—</td>
<td>$16,995</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>$1,332</td>
<td>$162</td>
<td>$—</td>
<td>$1,494</td>
</tr>
<tr>
<td>Income (loss) before provision for income taxes</td>
<td>$42,405</td>
<td>$3,761</td>
<td>$(50,714)</td>
<td>$(4,548)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Six Months Ended June 30, 2016</th>
<th>Impax Generics</th>
<th>Impax Specialty Pharma</th>
<th>Corporate and Other</th>
<th>Total Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues, net</td>
<td>$291,774</td>
<td>$106,324</td>
<td>$—</td>
<td>$398,098</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>$194,461</td>
<td>$28,063</td>
<td>$—</td>
<td>$222,524</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>$6,339</td>
<td>$29,951</td>
<td>$52,916</td>
<td>$89,206</td>
</tr>
<tr>
<td>Research and development</td>
<td>$31,684</td>
<td>$9,084</td>
<td>$—</td>
<td>$40,768</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>$269</td>
<td>$2,979</td>
<td>$—</td>
<td>$3,248</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>$59,021</td>
<td>$36,247</td>
<td>$(116,712)</td>
<td>$(21,444)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Six Months Ended June 30, 2015</th>
<th>Impax Generics</th>
<th>Impax Specialty Pharma</th>
<th>Corporate and Other</th>
<th>Total Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues, net</td>
<td>$303,420</td>
<td>$53,858</td>
<td>$—</td>
<td>$357,278</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>$186,880</td>
<td>$26,313</td>
<td>$—</td>
<td>$213,193</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>$11,570</td>
<td>$27,768</td>
<td>$59,131</td>
<td>$98,469</td>
</tr>
<tr>
<td>Research and development</td>
<td>$23,754</td>
<td>$8,203</td>
<td>$—</td>
<td>$31,957</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>$2,110</td>
<td>$344</td>
<td>$—</td>
<td>$2,454</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>$79,106</td>
<td>$(8,770)</td>
<td>$(85,589)</td>
<td>$(15,253)</td>
</tr>
</tbody>
</table>

Foreign Operations

The Company’s wholly-owned subsidiary, Impax Laboratories (Taiwan) Inc., has constructed a facility in Taiwan which is utilized for manufacturing, research and development, warehouse, and administrative functions, with $145.6 million and $131.6 million of net carrying value of assets, composed principally of a building and equipment, included in the Company's consolidated balance sheets at June 30, 2016 and December 31, 2015, respectively.
## 23. SUPPLEMENTARY FINANCIAL INFORMATION (Unaudited)

Selected financial information for the quarterly period noted is as follows:

<table>
<thead>
<tr>
<th>(in thousands, except share and per share amounts)</th>
<th>Quarter Ended March 31, 2016</th>
<th>Quarter Ended June 30, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impax Generic Product sales, gross</td>
<td>$ 611,281</td>
<td>$ 531,226</td>
</tr>
<tr>
<td><strong>Less:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chargebacks</td>
<td>217,354</td>
<td>197,864</td>
</tr>
<tr>
<td>Rebates</td>
<td>185,476</td>
<td>178,097</td>
</tr>
<tr>
<td>Product Returns</td>
<td>11,913</td>
<td>10,237</td>
</tr>
<tr>
<td>Other credits</td>
<td>29,354</td>
<td>25,075</td>
</tr>
<tr>
<td>Impax Generic Product sales, net</td>
<td>167,184</td>
<td>119,953</td>
</tr>
<tr>
<td>Rx Partner</td>
<td>2,835</td>
<td>1,669</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>60</td>
<td>73</td>
</tr>
<tr>
<td>Impax Generic Division revenues, net</td>
<td>170,079</td>
<td>121,695</td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, gross</td>
<td>82,073</td>
<td>81,254</td>
</tr>
<tr>
<td><strong>Less:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chargebacks</td>
<td>6,111</td>
<td>8,826</td>
</tr>
<tr>
<td>Rebates</td>
<td>2,853</td>
<td>2,430</td>
</tr>
<tr>
<td>Product Returns</td>
<td>1,508</td>
<td>1,279</td>
</tr>
<tr>
<td>Other credits</td>
<td>16,172</td>
<td>17,824</td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, net</td>
<td>55,429</td>
<td>50,895</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Impax Specialty Pharma revenues, net</td>
<td>55,429</td>
<td>50,895</td>
</tr>
<tr>
<td><strong>Total revenues</strong></td>
<td>225,508</td>
<td>172,590</td>
</tr>
<tr>
<td>Gross profit</td>
<td>102,590</td>
<td>72,984</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>(10,408)</td>
<td>(2,701)</td>
</tr>
<tr>
<td><strong>Net loss per common share:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>(0.15)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>Diluted</td>
<td>(0.15)</td>
<td>(0.04)</td>
</tr>
<tr>
<td><strong>Weighted-average common shares outstanding:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>70,665,394</td>
<td>71,100,123</td>
</tr>
<tr>
<td>Diluted</td>
<td>70,665,394</td>
<td>71,100,123</td>
</tr>
</tbody>
</table>
(in thousands, except share and per share amounts)

<table>
<thead>
<tr>
<th></th>
<th>Quarter Ended March 31, 2015</th>
<th>Quarter Ended June 30, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impax Generic Product sales, gross</td>
<td>$355,321</td>
<td>$572,079</td>
</tr>
<tr>
<td>Less:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chargebacks</td>
<td>126,607</td>
<td>228,977</td>
</tr>
<tr>
<td>Rebates</td>
<td>83,130</td>
<td>139,477</td>
</tr>
<tr>
<td>Product Returns</td>
<td>6,427</td>
<td>7,528</td>
</tr>
<tr>
<td>Other credits</td>
<td>13,198</td>
<td>24,824</td>
</tr>
<tr>
<td>Impax Generic Product sales, net</td>
<td>125,959</td>
<td>171,273</td>
</tr>
<tr>
<td>Rx Partner</td>
<td>2,239</td>
<td>2,579</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>543</td>
<td>827</td>
</tr>
<tr>
<td>Impax Generic Division revenues, net</td>
<td>128,741</td>
<td>174,679</td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, gross</td>
<td>29,219</td>
<td>65,269</td>
</tr>
<tr>
<td>Less:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chargebacks</td>
<td>5,561</td>
<td>4,452</td>
</tr>
<tr>
<td>Rebates</td>
<td>2,132</td>
<td>2,970</td>
</tr>
<tr>
<td>Product Returns</td>
<td>2,620</td>
<td>6,763</td>
</tr>
<tr>
<td>Other credits</td>
<td>4,778</td>
<td>11,809</td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, net</td>
<td>14,128</td>
<td>39,275</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>227</td>
<td>228</td>
</tr>
<tr>
<td>Impax Specialty Pharma revenues, net</td>
<td>14,355</td>
<td>39,503</td>
</tr>
<tr>
<td>Total revenues</td>
<td>143,096</td>
<td>214,182</td>
</tr>
<tr>
<td>Gross profit</td>
<td>59,234</td>
<td>84,851</td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (6,333)</td>
<td>$ (1,852)</td>
</tr>
<tr>
<td>Net loss per common share:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$ (0.09)</td>
<td>$ (0.03)</td>
</tr>
<tr>
<td>Diluted</td>
<td>$ (0.09)</td>
<td>$ (0.03)</td>
</tr>
<tr>
<td>Weighted-average common shares outstanding:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>68,967,875</td>
<td>69,338,789</td>
</tr>
<tr>
<td>Diluted</td>
<td>68,967,875</td>
<td>69,338,789</td>
</tr>
</tbody>
</table>
24. SUBSEQUENT EVENTS

Completion and Financing of the Teva Transaction

Teva Transaction

On June 20, 2016, the Company entered into definitive agreements with Teva and affiliates of Allergan plc ("Allergan") for the acquisition of a broad portfolio of generic products across solid oral, inhalable, injectable and topical dosage forms and the return to the Company of its rights to its pending ANDAs for the generic equivalent to Concerta® (methylphenidate hydrochloride) for an aggregate purchase price of $585.8 million in cash at closing plus contingent consideration consisting of future payments of up to $40.0 million as discussed below (the "Teva Transaction"). The Teva Transaction was part of the divestiture process mandated by the Federal Trade Commission (the "FTC") in connection with the acquisition by Teva of the U.S. generics business of Allergan.

On August 3, 2016, the Company closed the Teva Transaction and completed the acquisition of the following assets:

- A portfolio of 15 currently marketed generic products;
- One approved generic product and two tentatively approved strengths of a currently marketed product, which have not yet launched;
- One pipeline generic product and one pipeline strength of a currently marketed product, which are pending FDA approval;
- The full commercial rights to the Company's pending ANDA for the generic equivalent to Concerta® (methylphenidate hydrochloride), a product previously partnered with Teva; and
- One generic product under development.

The acquisition of the foregoing currently marketed and pipeline products fits with the Company's strategic priorities of maximizing its Generics Division's platform and optimizing research and development. Through the Teva Transaction, the Company expects to expand its portfolio of difficult-to-manufacture or limited-competition products and maximize utilization of its existing manufacturing facilities in Hayward, California and Taiwan.

As part of the Teva Transaction, and subject to and effective with its closing, the Company and Teva entered into a letter agreement whereby the parties agreed to terminate all of the rights and obligations of each party with respect to generic Concerta® under the Teva Agreement as discussed in “Note 19. Alliance and Collaboration Agreements,” including any and all licenses, rights or interests granted by the Company to Teva with respect to such product. In consideration thereof, the Company will make certain specified contingent payments to Teva in the aggregate amount of up to $40.0 million, payable upon the achievement of specified commercialization events related to generic Concerta® as set forth in the letter agreement. The acquisition of full commercial rights to generic Concerta® pursuant to the letter agreement provides the Company with an additional potential product launch.

The Teva Transaction will be accounted for in accordance with the acquisition method of accounting for business combinations, which requires the Company to record the assets acquired and the liabilities assumed on its consolidated balance sheet at their respective fair values on the acquisition date. The results of operations for the acquired products will be included in the Company’s consolidated financial statements from the date of acquisition.

Due to the Company’s limited access to product-related information prior to the closing of the acquisition and the limited time that has elapsed from the closing of the acquisition date to the filing date of the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 2016, the initial accounting for the business combination is incomplete. As a result, the Company is unable to provide contingent consideration disclosures and the amounts recognized as of the acquisition date for the major classes of assets acquired and liabilities assumed, including the information required for net working capital, pre-acquisition contingencies, intangible assets and goodwill in its Quarterly Report on Form 10-Q for the quarter ended June 30, 2016. The Company is also unable to include the effects of the acquisition in pro forma revenues and earnings of the combined entity in its Quarterly Report on Form 10-Q for the quarter ended June 30, 2016. The Company intends to include the required information in its next Quarterly Report on Form 10-Q for the quarter ending September 30, 2016.

Financing

On August 3, 2016, the Company also entered into a restatement agreement with Royal Bank of Canada, as administrative agent, and the lenders and guarantors party thereto (the "Restatement Agreement"). The Restatement Agreement amends and restates the Company's existing Revolving Credit Facility Agreement (as amended and restated, the "Amended and Restated Credit
Affiliates is currently under audit for federal income tax. Lineage's tax return for the 2013 tax year, which was the period under IRS examination, and that the IRS had closed its audit. Neither the Company nor any of its affiliates is currently under audit for federal income tax.

Receipt of No Change Letter - Lineage IRS Audit

In early August 2016, the Company received a "no change letter" from the IRS indicating that the IRS had determined that no changes were required to Lineage's tax return for the 2013 tax year, which was the period under IRS examination, and that the IRS had closed its audit. Neither the Company nor any of its affiliates is currently under audit for federal income tax.
Item 2. Management’s Discussion and Analysis of Results of Operations and Financial Condition

The following discussion and analysis, as well as other sections in this Quarterly Report on Form 10-Q, should be read in conjunction with the unaudited interim consolidated financial statements and related notes to the unaudited interim consolidated financial statements included elsewhere herein.

Statements included in this Quarterly Report on Form 10-Q that do not relate to present or historical conditions are “forward-looking statements.” Such forward-looking statements involve risks and uncertainties that could cause results or outcomes to differ materially from those expressed in the forward-looking statements. Forward-looking statements may include statements relating to our plans, strategies, objectives, expectations and intentions. Words such as “believes,” “forecasts,” “intends,” “possible,” “estimates,” “anticipates,” and “plans” and similar expressions are intended to identify forward-looking statements. Our ability to predict results or the effect of events on our operating results is inherently uncertain. Forward-looking statements involve a number of risks, uncertainties and other factors that could cause actual results to differ materially from those discussed in this Quarterly Report on Form 10-Q. Such risks and uncertainties include, but are not limited to, fluctuations in our revenues and operating income, our ability to successfully develop and commercialize pharmaceutical products in a timely manner, reductions or loss of business with any significant customer, the substantial portion of our total revenues derived from sales of a limited number of products, the impact of consolidation of our customer base, the impact of competition, our ability to sustain profitability and positive cash flows, any delays or unanticipated expenses in connection with the operation of our manufacturing facilities, the effect of foreign economic, political, legal and other risks on our operations abroad, the uncertainty of patent litigation and other legal proceedings, the increased government scrutiny on our agreements with brand pharmaceutical companies, product development risks and the difficulty of predicting FDA filings and approvals, consumer acceptance and demand for new pharmaceutical products, the impact of market perceptions of us and the safety and quality of our products, our determinations to discontinue the manufacture and distribution of certain products, our ability to achieve returns on our investments in research and development activities, changes to FDA approval requirements, our ability to successfully conduct clinical trials, our reliance on third parties to conduct clinical trials and testing, our lack of a license partner for commercialization of NUMIENT™ IPX066 outside of the United States, impact of illegal distribution and sale by third parties of counterfeits or stolen products, the availability of raw materials and impact of interruptions in our supply chain, our policies regarding returns, rebates, allowances and chargebacks, the use of controlled substances in our products, the effect of current economic conditions on our industry, business, results of operations and financial condition, disruptions or failures in our information technology systems and network infrastructure caused by third party breaches or other events, our reliance on alliance and collaboration agreements, our reliance on licenses to proprietary technologies, our dependence on certain employees, our ability to comply with legal and regulatory requirements governing the healthcare industry, the regulatory environment, the effect of certain provisions in our government contracts, our ability to protect our intellectual property, exposure to product liability claims, risks relating to goodwill and intangibles, changes in tax regulations, our ability to manage our growth, including through potential acquisitions and investments, the risks related to the Company’s acquisitions of or investments in technologies, products or businesses, the restrictions imposed by our credit facility and indenture, the Company’s level of indebtedness and liabilities and the potential impact on cash flow available for operations, uncertainties involved in the preparation of our financial statements, our ability to maintain an effective system of internal control over financial reporting, the effect of terrorist attacks on our business, the location of our manufacturing and research and development facilities near earthquake fault lines, expansion of social media platforms and other risks described herein and in our Annual Report on Form 10-K for the year ended December 31, 2015. You should not place undue reliance on forward-looking statements. Such statements speak only as to the date on which they are made, and we undertake no obligation to update or revise any forward-looking statement, regardless of future developments or availability of new information.

Rytary® and Emverm® are registered trademarks of Impax Laboratories, Inc. Other names are for informational purposes only and are used to identify companies and products and may be trademarks of their respective owners.

Overview

We are a specialty pharmaceutical company applying formulation and development expertise, as well as our drug delivery technology, to the development, manufacture and marketing of bioequivalent pharmaceutical products, commonly referred to as “generics,” in addition to the development, manufacture and marketing of branded products. We operate in two segments, referred to as “Impax Generics” and “Impax Specialty Pharma.” Impax Generics concentrates its efforts on generic products, which are the pharmaceutical and therapeutic equivalents of brand-name drug products and are usually marketed under their established nonproprietary drug names rather than by a brand name. Impax Specialty Pharma utilizes its specialty sales force to market proprietary branded pharmaceutical products for the treatment of CNS disorders and other select specialty segments. Impax Specialty Pharma also generated revenue from research and development services provided to an unrelated third-party pharmaceutical entity (which agreement was terminated by mutual agreement of the parties effective December 23, 2015). We currently sell our generic and branded products within the continental United States and the Commonwealth of Puerto Rico. We currently have no sales in foreign countries.
We plan to continue to expand Impax Generics through targeted ANDAs and a first-to-file and first-to-market strategy and to continue to evaluate and pursue external growth initiatives, including acquisitions and partnerships. We focus our efforts on a broad range of therapeutic areas including products that have technically challenging drug-delivery mechanisms or unique product formulations. We employ our technologies and formulation expertise to develop generic products that reproduce brand-name products’ physiological characteristics but do not infringe any valid patents relating to such brand-name products. We generally focus our generic product development on brand-name products as to which the patents covering the active pharmaceutical ingredient have expired or are near expiration, and we employ our proprietary formulation expertise to develop controlled-release technologies that do not infringe patents covering the brand-name products’ controlled-release technologies. We also develop, manufacture, sell and distribute specialty generic pharmaceuticals that we believe present one or more competitive advantages, such as difficulty in raw materials sourcing, complex formulation or development characteristics or special handling requirements. In addition to our focus on solid oral dosage products, we have expanded our generic pharmaceutical products portfolio to include alternative dosage form products, primarily through alliance and collaboration agreements with third parties. As of June 30, 2016, we marketed 199 generic pharmaceuticals, which represent dosage variations of 70 different pharmaceutical compounds through our Impax Generics division; another five of our generic pharmaceuticals representing dosage variations of two different pharmaceutical compounds are marketed by our alliance and collaboration agreement partners. As of June 30, 2016, we had 20 applications pending at the FDA and 23 other products in various stages of development for which applications have not yet been filed.

The Impax Generics division develops, manufactures, sells, and distributes generic pharmaceutical products primarily through the following sales channels:

- the “Impax Generics sales channel” for sales of generic prescription products we sell directly to wholesalers, large retail drug chains, and others;
- the “Private Label Product sales channel” for generic pharmaceutical over-the-counter and prescription products we sell to unrelated third-party customers who in-turn sell the product to third parties under their own label;
- the “Rx Partner sales channel” for generic prescription products sold through unrelated third-party pharmaceutical entities under their own label pursuant to alliance agreements; and
- the “OTC Partner sales channel” for sales of generic pharmaceutical over-the-counter products sold through unrelated third-party pharmaceutical entities under their own label pursuant to alliance agreements.

Revenues from the Impax Generics sales channel and the Private Label Product sales channel are reported under the caption “Impax Generics sales, net” in our consolidated statements of operations.

Impax Specialty Pharma is focused on developing proprietary branded pharmaceuticals products for the treatment of CNS disorders, which include migraine, multiple sclerosis, Parkinson’s disease and post herpetic neuralgia, as well as developing other select specialty products. Impax Specialty Pharma is involved in the promotion and sale of branded pharmaceutical products through our specialty sales force. We believe that we have the research, development and formulation expertise to develop branded products that will deliver significant improvements over existing therapies.

Our branded pharmaceutical product portfolio consists of commercial CNS and other select specialty products, as well as development stage projects. In February 2012, we licensed from AZ the exclusive U.S. commercial rights to Zomig® (zolmitriptan) tablet, orally disintegrating tablet and nasal spray formulations pursuant to the terms of the AZ Agreement (which was subsequently amended) and began sales of the Zomig® products under our label during the year ended December 31, 2012 through our specialty sales force. In May 2013, our exclusivity period for branded Zomig® tablets and orally disintegrating tablets expired and we launched authorized generic versions of those products in the United States. In June 2015, the FDA approved the Zomig® nasal spray for use in pediatric patients 12 years of age or older for the acute treatment of migraine with or without aura. In addition to the Zomig® products and our internally developed pharmaceutical product, Rytary® for the treatment of Parkinson’s disease, post-encephalitic parkinsonism, and parkinsonism that may follow carbon monoxide intoxication and/or manganese intoxication, which was approved by the FDA on January 7, 2015, we are currently engaged in the sales and marketing of Emverm® (mebendazole) 100 mg chewable tablets, indicated for the treatment of pinworm, whipworm, common roundworm, common hookworm, and two other products, all acquired in our acquisition of Tower and Lineage which closed in March 2015. In November 2015, the European Commission granted marketing authorization for NUMIENT™ (referred to as Rytary® in the United States). The review of the NUMIENT™ application was conducted under the centralized licensing procedure as a therapeutic innovation, and the authorization is applicable in all 28 member states of the European Union, as well as Iceland, Liechtenstein and Norway.

We have entered into several alliance, collaboration or license and distribution agreements with respect to certain of our products and services and may enter into similar agreements in the future. These agreements may require us to relinquish rights.
to certain of our technologies or product candidates, or to grant licenses on terms which ultimately may prove to be unfavorable to us. Relationships with alliance and collaboration partners may also include risks due to the failure of a partner to perform under the agreement, incomplete marketplace information, inventories, development capabilities, regulatory compliance and manufacturing systems of our partners and our agreements may be the subject of contractual disputes. For instance, we have historically experienced some disruptions in supply of certain products. If we suffer similar supply failures on our significant products in the future, or if we or our partners are not successful in commercializing the products covered by such alliance, collaboration or license and distribution agreements, our revenues and relationships with our customers may be materially adversely affected.

**Quality Control**

Regulatory agencies such as the FDA regularly inspect our manufacturing facilities and the facilities of our third party suppliers. The failure of one of our facilities, or a facility of one of our third party suppliers, to comply with applicable laws and regulations may lead to breach of representations made to our customers or to regulatory or government action against us related to products made in that facility. We have in the past received a warning letter from the FDA regarding certain operations within our manufacturing network at our Hayward manufacturing facility, which we subsequently resolved in 2015. We remain committed to continuing to improve our quality control and manufacturing practices, however, we cannot be assured that the FDA will continue to be satisfied with our corrective actions and with our quality control and manufacturing systems and standards. If we receive any future FDA observations, we may be subject to regulatory action including, among others, monetary sanctions or penalties, product recalls or seizure, injunctions, total or partial suspension of production and/or distribution, and suspension or withdrawal of regulatory approvals. Further, other federal agencies, our customers and partners in our alliance, development, collaboration and other partnership agreements with respect to our products and services may take any such Form 483 observations or warning letters into account when considering the award of contracts or the continuation or extension of such partnership agreements. If we receive any future Form 483 observations or warning letters from the FDA, our business, consolidated results of operations and consolidated financial condition could be materially and adversely affected.

**Critical Accounting Policies and Use of Estimates**

The preparation of our consolidated financial statements in accordance with accounting principles generally accepted in the United States (“GAAP”) and the rules and regulations of the U.S. Securities & Exchange Commission (“SEC”) require the use of estimates and assumptions, based on complex judgments considered reasonable, and affect the reported amounts of assets and liabilities and 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 most significant judgments are employed in estimates used in determining values of tangible and intangible assets, legal contingencies, tax assets and tax liabilities, fair value of share-based compensation related to equity incentive awards issued to employees and directors, and estimates used in applying our revenue recognition policy including those related to accrued chargebacks, rebates, distribution service fees, product returns, Medicare, Medicaid, and other government rebate programs, shelf-stock adjustments, and the timing and amount of deferred and recognized revenue under our several alliance and collaboration agreements. Actual results may differ from estimated results.

Although we believe our estimates and assumptions are reasonable when made, they are based upon information available to us at the time they are made. We periodically review the factors having an influence on our estimates and, if necessary, adjust such estimates. Although historically our estimates have generally been reasonably accurate, due to the risks and uncertainties involved in our business and evolving market conditions, and given the subjective element of the estimates made, actual results may differ from estimated results. This possibility may be greater than normal during times of pronounced economic volatility.

**Impax Generics sales, net, and Impax Specialty Pharma sales, net.** We recognize revenue from the sale of products when title and risk of loss of the product is transferred to the customer and the sales price is fixed and determinable. Provisions for discounts, early payments, rebates, sales returns and distributor chargebacks under terms customary in the industry are provided for in the same period the related sales are recorded. We record estimated reductions to revenue at the time of the initial sale and these estimates are based on the sales terms, historical experience and trend analysis.

**Gross to Net Sales Accruals.**

Sales returns accruals are based on estimated on-hand inventories at our customers, measured end-customer demand as reported by third-party sources, actual returns history and other factors, such as the trend experience for lots where product is still being returned or inventory centralization and rationalization initiatives conducted by major pharmacy chains, as applicable. If the historical data we use to calculate these estimates do not properly reflect future returns, then a change in the allowance would be made in the period in which such a determination is made and revenues in that period could be materially affected. Under this methodology, we track actual returns by individual production lots. Returns on closed lots, that is, lots no longer eligible for return credits, are analyzed to determine historical returns experience. Returns on open lots, that is, lots still eligible for return credits,
are monitored and compared with historical return trend rates. Any changes from the historical trend rates are considered in determining the current sales return allowance.

**Sales discount accruals** are based on payment terms extended to customers.

**Government rebate accruals** are based on estimated payments due to governmental agencies for purchases made by third parties under various governmental programs. U.S. Medicaid rebate accruals are generally based on historical payment data and estimates of future Medicaid beneficiary utilization applied to the Medicaid unit rebate formula established by the Center for Medicaid and Medicare Services. The Medicaid rebate percentage was increased and extended to Medicaid Managed Care Organizations in March 2010. The accrual of the rebates associated with Medicaid Managed Care Organizations is calculated based on actual billings received from the states. We adjust the rebate accruals as more information becomes available and to reflect actual claims experience. Effective January 1, 2011, manufacturers of pharmaceutical products are responsible for 50% of the patient’s cost of branded prescription drugs related to the Medicare Part D Coverage Gap. In order to estimate the cost to us of this coverage gap responsibility, we analyze the historical invoices. This expense is recognized throughout the year as costs are incurred. TRICARE is a health care program of the U.S. Department of Defense Military Health System that provides civilian health benefits for military personnel, military retirees and their dependents. TRICARE rebate accruals are based on estimated Department of Defense eligible sales multiplied by the TRICARE rebate formula.

**Rebates or administrative fees** are offered to certain customers, group purchasing organizations and pharmacy benefit managers, consistent with pharmaceutical industry practices. Settlement of rebates and fees may generally occur from one to 15 months from the date of sale. We provide a provision for rebates at the time of sale based on contracted rates and historical redemption rates. Assumptions used to establish the provision include level of customer inventories, contract sales mix and average contract pricing. We regularly review the information related to these estimates and adjust the provision accordingly.

**Chargeback accruals** are based on the differentials between product acquisition prices paid by wholesalers and lower contract pricing paid by eligible customers.

**Distributor service fee accruals** are based on contractual fees to be paid to the wholesale distributor for services provided.

A significant majority of our gross to net accruals are the result of chargebacks and rebates, with the majority of those programs having an accrual to payment cycle of three months. In addition to this relatively short accrual to payment cycle, we receive monthly information from the wholesaling regarding their sales of our products and actual on hand inventory levels of our products. During the six months ended June 30, 2016, the three large wholesalers account for 97% of our chargebacks and 83% of our indirect sales rebates. This enables us to execute accurate provisioning procedures. Consistent with the pharmaceutical industry, the accrual to payment cycle for returns is longer and can take several years depending on the expiration of the related products. However, returns represent the smallest gross to net adjustment. We have not experienced any significant changes in our estimates as it relates to our chargebacks, rebates or returns in the six month and one year periods ended June 30, 2016 and December 31, 2015, respectively.

The following tables are roll-forwards of the activity in the reserves for the six months ended June 30, 2016 and the year ended December 31, 2015 with an explanation for any significant changes in the accrual percentages (in thousands):

<table>
<thead>
<tr>
<th>Chargeback reserve</th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$102,630</td>
<td>$43,125</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>24,532</td>
</tr>
<tr>
<td>Provision recorded during the period</td>
<td>430,155</td>
<td>833,157</td>
</tr>
<tr>
<td>Credits issued during the period</td>
<td>(440,242)</td>
<td>(798,184)</td>
</tr>
<tr>
<td>Ending balance</td>
<td>$92,543</td>
<td>$102,630</td>
</tr>
<tr>
<td>Provision as a percent of gross product sales</td>
<td>33%</td>
<td>34%</td>
</tr>
</tbody>
</table>

As noted in the table above, the provision for chargebacks, as a percent of gross product sales, decreased from 34% during the year ended December 31, 2015 to 33% during the six months ended June 30, 2016 as a result of product sales mix and the inclusion of product sales from the Tower acquisition.
Rebate reserve

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$265,229</td>
<td>$88,812</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>75,447</td>
</tr>
<tr>
<td>Provision recorded during the period</td>
<td>368,856</td>
<td>571,642</td>
</tr>
<tr>
<td>Credits issued during the period</td>
<td>(271,089)</td>
<td>(470,672)</td>
</tr>
<tr>
<td>Ending balance</td>
<td>$362,996</td>
<td>$265,229</td>
</tr>
<tr>
<td>Provision as a percent of gross product sales</td>
<td>28%</td>
<td>23%</td>
</tr>
</tbody>
</table>

As noted in the table above, the provision for rebates, as a percent of gross product sales, increased from 23% during the year ended December 31, 2015 to 28% during the six months ended June 30, 2016 as a result of product sales mix, the formation of alliances between major wholesalers and major retailers and the inclusion of product sales from the Tower acquisition which carried a higher rebate rate. The table above represents rebates in both the Impax Generics and Impax Specialty Pharma divisions. The payment mechanisms for rebates in the Impax Generics and Impax Specialty Pharma divisions are different, which impacts the location on our balance sheet. Only rebates in the Impax Generics division are shown in "Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 8. Accounts Receivable," as Impax Specialty Pharma rebates are classified as Accrued Expenses on our consolidated balance sheets.

Returns reserve

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning balance</td>
<td>$48,950</td>
<td>$27,174</td>
</tr>
<tr>
<td>Acquired balances</td>
<td>—</td>
<td>11,364</td>
</tr>
<tr>
<td>Provision related to sales recorded in the period</td>
<td>24,937</td>
<td>43,967</td>
</tr>
<tr>
<td>Credits issued during the period</td>
<td>(13,697)</td>
<td>(33,555)</td>
</tr>
<tr>
<td>Ending balance</td>
<td>$60,190</td>
<td>$48,950</td>
</tr>
<tr>
<td>Provision as a percent of gross product sales</td>
<td>1.9%</td>
<td>2.0%</td>
</tr>
</tbody>
</table>

The provision for returns as a percent of gross product sales decreased to 1.9% during the six month period ended June 30, 2016 compared to 2.0% during the year ended December 31, 2015 as a result of slightly lower historical returns experience.

Medicaid and Other Government Pricing Programs. As required by law, we provide a rebate payment on drugs dispensed under the Medicaid, Medicare Part D, TRICARE, and other U.S. government pricing programs. We determine our estimate of the accrued rebate reserve for government programs primarily based on historical experience of claims submitted by the various states, and other jurisdictions, as well as any new information regarding changes in the pricing programs that may impact our estimate of rebates. In determining the appropriate accrual amount, we consider historical payment rates and processing lag for outstanding claims and payments. We record estimates for government rebate payments as a deduction from gross sales, with corresponding adjustments to accrued liabilities. The accrual for payments under government pricing programs totaled $86.4 million and $91.7 million as of June 30, 2016 and December 31, 2015, respectively.

Shelf-Stock Adjustments. Based upon competitive market conditions, we may reduce the selling price of some of our products to customers for certain future product shipments. We may issue a credit against the sales amount to a customer based upon its remaining inventory of the product in question, provided the customer agrees to continue to make future purchases of product from us. This type of customer credit is referred to as a shelf-stock adjustment, which is the difference between the sales price and the revised lower sales price, multiplied by an estimate of the number of product units on hand at a given date. Decreases in selling prices are discretionary decisions made by us in response to market conditions, including estimated launch dates of competing products and estimated declines in market price. The accrued reserve for shelf-stock adjustments totaled $6.9 million and $6.6 million as of June 30, 2016 and December 31, 2015, respectively.

Rx Partner and OTC Partner. Each of our Rx Partner and OTC Partner agreements contain multiple deliverables in the form of products, services and/or licenses over extended periods. FASB ASC Topic 605-25 supplemented SAB 104 and provides guidance for accounting for such multiple-element revenue arrangements. With respect to our multiple-element revenue arrangements that are material to our financial results, we determine whether any or all of the elements of the arrangement should be separated into individual units of accounting under FASB ASC Topic 605-25. If separation into individual units of accounting is appropriate, we recognize revenue for each deliverable when the revenue recognition criteria specified by SAB 104 are achieved for the deliverable. If separation is not appropriate, we recognize revenue and related direct manufacturing costs over the estimated

53
life of the agreement or our estimated expected period of performance using either the straight-line method or a modified proportional performance method.

The Rx Partners and OTC Partners agreements obligate us to deliver multiple goods and/or services over extended periods. Such deliverables include manufactured pharmaceutical products, exclusive and semi-exclusive marketing rights, distribution licenses, and research and development services. In exchange for these deliverables, we receive payments from our agreement partners for product shipments and research and development services, and may also receive other payments including royalty, profit sharing, upfront payments, and periodic milestone payments. Revenue received from our partners for product shipments under these agreements is generally not subject to deductions for chargebacks, rebates, product returns, and other pricing adjustments. Royalty and profit sharing amounts we receive under these agreements are calculated by the respective agreement partner, with such royalty and profit share amounts generally based upon estimates of net product sales or gross profit which include estimates of deductions for chargebacks, rebates, product returns, and other adjustments the alliance agreement partners may negotiate with their customers. We record the agreement partner's adjustments to such estimated amounts in the period the agreement partner reports the amounts to us.

OTC Partner revenue is related to our alliance and collaboration agreement with Pfizer, Inc., formerly Wyeth LLC (“Pfizer”) and our supply agreement with L. Perrigo Company (“Perrigo”) with respect to the supply of over-the-counter pharmaceutical products. The OTC Partner sales channel is no longer a core area of our business, and the over-the-counter pharmaceutical products we sell through this sales channel are older products which are only sold to Pfizer and Perrigo. We are currently only required to manufacture the over-the-counter pharmaceutical products under our agreements with Pfizer and Perrigo. We recognize profit share revenue in the period earned.

Research Partner . We have entered into development agreements with unrelated third-party pharmaceutical companies under which we are collaborating in the development of five dermatological products, including four generic products and one branded dermatological product. Under each of the development agreements, we received an upfront fee with the potential to receive additional milestone payments upon completion of contractually specified clinical and regulatory milestones. Additionally, we may also receive royalty payments from the sale, if any, of a successfully developed and commercialized branded product under one of the development agreements. We defer and recognize revenue received from the achievement of contingent research and development milestones in the period such payment is earned. We will recognize royalty fee income, if any, as current period revenue when earned.

Estimated Lives of Alliance and Collaboration Agreements. Because we may defer revenue we receive under our alliance agreements, and recognize it over the estimated life of the related agreement, or our expected period of performance, we are required to estimate the recognition period under each such agreement in order to determine the amount of revenue to be recognized in each period. Sometimes this estimate is based on the fixed term of the particular alliance agreement. In other cases the estimate may be based on more subjective factors as noted in the following paragraphs. While changes to the estimated recognition periods have been infrequent, such changes, should they occur, may have a significant impact on our consolidated financial statements.

As an illustration, the consideration received from the provision of research and development services under the Joint Development Agreement with Valeant Pharmaceuticals International, Inc. (“Valeant Agreement”), including the upfront fee and milestone payments received before January 1, 2011, have been initially deferred and are being recognized as revenue on a straight-line basis over our expected period of performance to provide research and development services under the Valeant Agreement. The completion of the final deliverable under the Valeant Agreement represents the end of our estimated expected period of performance, as we will have no further contractual obligation to perform research and development services under the Valeant Agreement, and therefore the earnings process will be complete. The expected period of performance was initially estimated to be a 48 month period, starting in December 2008, upon receipt of the $40.0 million upfront payment, and ending in November 2012. During the year ended December 31, 2012, we extended the end of the revenue recognition period for the Valeant Agreement from November 2012 to November 2013 and during the three month period ended March 31, 2013, we further extended the end of the revenue recognition period for the agreement from November 2013 to December 2014 due to changes in the estimated timing of completion of certain research and development activities under the agreement. All deferred revenue under the Valeant Agreement was completely recognized as of December 31, 2014.

Third-Party Research Agreements. In addition to our own research and development resources, we may use unrelated third-party vendors, including universities and independent research companies, to assist in our research and development activities. These vendors provide a range of research and development services to us, including clinical and bio-equivalency studies. We generally sign agreements with these vendors which establish the terms of each study performed by them, including, among other things, the technical specifications of the study, the payment schedule, and timing of work to be performed. Third-party researchers generally earn payments either upon the achievement of a milestone, or on a pre-determined date, as specified in each study agreement. We account for third-party research and development expenses as they are incurred according to the terms and conditions of the respective agreement for each study performed, with an accrued expense at each balance sheet date for estimated fees and
impairment test.

be any significant adverse changes in the legal, regulatory or business environment in which we conduct our operations that would require us to perform an interim

test for impairment. We have determined it is more likely than not that any impairment test that we may be required to perform in the future would not indicate

have occurred, we would perform an interim impairment analysis, which may include the preparation of a discounted cash flow model, or consultation with one

fair value of each reporting unit, and thus indicate a potential impairment of the goodwill carrying value. If such events or changes in circumstances were deemed

review of our business operations to determine whether events or changes in circumstances have occurred that could have a material adverse effect on the estimated

estimate the fair value of the Impax Specialty Pharma division and the Impax Generics division using a discounted cash flow model for both the reporting unit and

is available. We attribute $59.7 million of goodwill to the Impax Specialty Pharma division and $148.7 million of goodwill to the Impax Generics division. We

concluded the carrying value of goodwill was not impaired as of December 31, 2015 as the fair value of the Impax Specialty Pharma division and the Impax

is subject to an annual assessment for impairment. Under FASB ASC Topic 350, if the fair value of the reporting unit exceeds the reporting unit’s

data on the “simplified” method described in SAB No. 107, Share-Based Payment and SAB No. 110, Share-Based Payment, because it provides a reasonable estimate in comparison to our actual experience. We base the risk-free interest rate on the U.S. Treasury yield in effect at the time of grant for an instrument with a maturity that is commensurate with the expected term of the stock options. The dividend yield is zero as we have

never paid cash dividends on our common stock, and have no present intention to pay cash dividends. During the year ended December 31, 2014, we granted

shares of restricted stock that vested upon the achievement of certain stock price performance criteria. We valued these awards using a Monte Carlo simulation.

Income Taxes. We are subject to U.S. federal, state and local income taxes, Netherlands income tax and Taiwan R.O.C. income taxes. We create a deferred

tax asset, or a deferred tax liability, when we have temporary differences between the financial statement carrying values (in accordance with U.S. GAAP) and the
tax bases of our assets and liabilities.

Fair Value of Financial Instruments. We carry our deferred compensation liability at the value of the amount owed to participants and derive it from observable market data by reference to hypothetical investments. The carrying values of other financial assets and liabilities such as cash equivalents, accounts

receivable, prepaid and other current assets, and accounts payable approximate their fair values due to their short-term nature.

Contingencies. In the normal course of business, we are subject to loss contingencies, such as legal proceedings and claims arising out of our business, covering a wide range of matters, including, among others, patent litigation, stockholder lawsuits, and product and clinical trial liability. In accordance with FASB ASC Topic 450, “Contingencies”, we record accrued loss contingencies when it is probable a liability will be incurred and the amount of loss can be reasonably estimated. We do not recognize gain contingencies until they have been realized.

Intangible Assets. Our intangible assets include both indefinite-lived and finite-lived assets. Indefinite-lived intangible assets are not amortized. In-process

research and development assets acquired in a business combination are considered indefinite lived until the completion or abandonment of the associated research

and development efforts. Finite-lived intangible assets are amortized over the estimated useful life based on the pattern in which the economic benefits of the

intangible asset are consumed or otherwise used up. If that pattern cannot be reliably determined, the straight-line amortization method is used. All of our

intangible assets are tested for impairment at least annually during the fourth quarter of the fiscal year, or more often if indicators of impairment are present.

Impairment testing requires management to estimate the future undiscounted cash flows of the finite lived intangible assets using assumptions believed to be

reasonable, but which are unpredictable and inherently uncertain. Actual future cash flows may differ from the estimates used in the impairment testing. We

recognize an impairment loss when and to the extent that the estimated fair value of an intangible asset is less than its carrying value.

Goodwill. In accordance with FASB ASC Topic 350, "Goodwill and Other Intangibles," rather than recording periodic amortization of goodwill, goodwill is subject to an annual assessment for impairment. Under FASB ASC Topic 350, if the fair value of the reporting unit exceeds the reporting unit’s carrying value, including goodwill, then goodwill is considered not impaired, making further analysis not required. We consider each of our Impax Generics division and Impax Specialty Pharma division operating segments to be a reporting unit, as this is the lowest level for each of which discrete financial information is available. We attribute $59.7 million of goodwill to the Impax Specialty Pharma division and $148.7 million of goodwill to the Impax Generics division. We concluded the carrying value of goodwill was not impaired as of December 31, 2015 as the fair value of the Impax Specialty Pharma division and the Impax Generics division exceeded their respective carrying values at each date. We perform our annual goodwill impairment test in the fourth quarter of each year. We estimate the fair value of the Impax Specialty Pharma division and the Impax Generics division using a discounted cash flow model for both the reporting unit and the enterprise, as well as earnings and revenue multiples per common share outstanding for enterprise fair value. In addition, on a quarterly basis, we perform a review of our business operations to determine whether events or changes in circumstances have occurred that could have a material adverse effect on the estimated fair value of each reporting unit, and thus indicate a potential impairment of the goodwill carrying value. If such events or changes in circumstances were deemed to have occurred, we would perform an interim impairment analysis, which may include the preparation of a discounted cash flow model, or consultation with one or more valuation specialists, to analyze the impact, if any, on our assessment of the reporting unit’s fair value. As of June 30, 2016, we have not deemed there to be any significant adverse changes in the legal, regulatory or business environment in which we conduct our operations that would require us to perform an interim impairment test.

Income Taxes.
Results of Operations


Overview

The following table sets forth our summarized, consolidated results of operations for the three month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Total revenues</td>
<td>$172,590</td>
<td>$214,182</td>
</tr>
<tr>
<td>Gross profit</td>
<td>72,984</td>
<td>84,851</td>
</tr>
<tr>
<td>Income from operations</td>
<td>4,401</td>
<td>18,053</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(3,950)</td>
<td>(4,548)</td>
</tr>
<tr>
<td>Benefit from income taxes</td>
<td>(1,249)</td>
<td>(2,696)</td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (2,701)</td>
<td>$ (1,852)</td>
</tr>
</tbody>
</table>

Consolidated total revenues for the three month period ended June 30, 2016 decreased by 19% or $41.6 million to $172.6 million, compared to $214.2 million in the prior year period. The decrease was primarily due to lower Impax Generics division product sales partially offset by an increase in sales of Impax Specialty Pharma division products. Existing product selling price decreased total revenues by 14.2% and product volumes decreased total revenues by 7.0%, while volumes from new product launches increased total revenues by 1.9%.

Revenues from our Impax Generics division decreased by $53.0 million during the three month period ended June 30, 2016, as compared to the prior year period, driven primarily by increased competition in diclofenac sodium gel and metaxalone as well as lower market share of generic Adderall XR®, in each case compared to the prior year period. In addition, during the second quarter of 2016, the Company recorded shelf-stock adjustments totaling $15.0 million on diclofenac sodium gel and metaxalone as a result of a decline in price during the current year period. Revenues from Impax Specialty Pharma division increased $11.4 million during the three month period ended June 30, 2016 as compared to the prior year period, primarily as a result of sales from Rytary® as well as increased sales from products acquired in the Tower acquisition, including sales from our anthelmintic products franchise.

Net loss for the three month period ended June 30, 2016 was $2.7 million, an increase of $0.8 million as compared to a net loss of $1.9 million for the three month period ended June 30, 2015. The increase in net loss compared to the prior year period was primarily attributable to lower gross profit as a result of lower Impax Generics division sales combined with higher operating expenses, which were partially offset by the absence of a loss on debt extinguishment in the current period compared to a loss of $16.9 million incurred in the second quarter 2015.
The following table sets forth results of operations for Impax Generics for the three month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>Three Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Impax Generics sales, net</td>
<td>$119,953</td>
<td>$171,273</td>
</tr>
<tr>
<td>Rx Partner</td>
<td>1,669</td>
<td>2,579</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>73</td>
<td>827</td>
</tr>
<tr>
<td>Total revenues</td>
<td>121,695</td>
<td>174,679</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>84,339</td>
<td>110,767</td>
</tr>
<tr>
<td>Gross profit</td>
<td>37,356</td>
<td>63,912</td>
</tr>
</tbody>
</table>

Operating expenses:

| Selling, general and administrative           | 1,565                       | 7,284                 | (5,719)     | (79%)      |
| Research and development                      | 17,089                      | 12,891                | 4,198       | 33%        |
| Patent litigation expenses                    | 155                         | 1,332                 | (1,177)     | (88%)      |
| Total operating expenses                      | 18,809                      | 21,507                | (2,698)     | (13%)      |
| Income from operations                        | $18,547                     | $42,405               | $(23,858)   | (56%)      |

Total revenues for Impax Generics for the three month period ended June 30, 2016, were $121.7 million, a decrease of 30% over the same period in 2015, driven primarily by increased competition in diclofenac sodium gel and metaxalone as well as lower market share of generic Adderall XR®, in each case compared to the prior year period. In addition, during the second quarter of 2016, the Company recorded shelf-stock adjustments totaling $15.0 million on diclofenac sodium gel and metaxalone as a result of a decline in price during the current year period.

Cost of Revenues

Cost of revenues was $84.3 million for the three month period ended June 30, 2016, a decrease of $26.4 million compared to the prior year period, principally resulting from the decreased costs related to lower product revenue as well as an overall net decrease in other production costs such as lower remediation costs, absence of inventory step-up charges in the current period compared to $0.7 million of such charges in the prior year period, and improved production efficiencies. Such reduced costs in the current year period were partially offset by higher severance costs incurred in conjunction with the previously announced closure of our Middlesex, New Jersey facility and intangible asset impairment charges.

Gross Profit

Gross profit for the three month period ended June 30, 2016 was $37.4 million, or 31% of total revenues, as compared to $63.9 million, or 37% of total revenues, in the prior year period. The decrease in gross profit was primarily driven by the decrease in sales of certain products as described above. The decrease in gross margin in the current period compared to the prior year period was primarily attributable to lower sales from our higher margin products versus the product sales mix for the prior year period as well as the impact of the $15.0 million in shelf-stock adjustments.

Selling, General and Administrative Expenses

Selling, general and administrative expenses for the three month period ended June 30, 2016 were $1.6 million, as compared to $7.3 million for the three month period ended June 30, 2015. The decrease of $5.7 million compared to the prior year period was primarily due to a decrease in failure-to-supply claims and trade accounts receivables reserves in the current period.

Research and Development Expenses

Total research and development expenses for the three month period ended June 30, 2016 were $17.1 million, an increase of 33%, as compared to $12.9 million in the prior year period, primarily due to an increase in project spend due to a ramp up of.
the research and development activities for both internal and external development projects and an asset impairment charge related to a generic product partially offset by lower spending on various other research and development projects, as compared to the prior year period.

**Patent Litigation Expenses**

Patent litigation expenses for the three month period ended June 30, 2016 were $0.2 million, as compared to $1.3 million for the three month period ended June 30, 2015. The decrease in patent litigation expenses of $1.1 million compared to the prior year period was the result of legal activity related to cases in the prior year period for which there was no corresponding activity in the current year period.

**Impax Specialty Pharma**

The following table sets forth results of operations for Impax Specialty Pharma for the three month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Revenues:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, net</td>
<td>$50,895</td>
<td>$39,275</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>—</td>
<td>228</td>
</tr>
<tr>
<td>Total revenues</td>
<td>50,895</td>
<td>39,503</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>15,267</td>
<td>18,564</td>
</tr>
<tr>
<td>Gross profit</td>
<td>35,628</td>
<td>20,939</td>
</tr>
</tbody>
</table>

| Operating expenses:    |      |      |         |            |
| Selling, general and administrative | 16,133 | 12,912 | 3,221   | 25%         |
| Research and development | 4,657  | 4,104  | 553     | 13%         |
| Patent litigation expenses | 1,774  | 162   | 1,612   | *           |
| Total operating expenses | 22,564 | 17,178 | 5,386   | 31%         |
| Income from operations  | $13,064 | $3,761 | $9,303  | *           |

* Percentage exceeds 100%

**Revenues**

Total revenues for Impax Specialty Pharma were $50.9 million for the three month period ended June 30, 2016, an increase of $11.4 million over the same period in the prior year, primarily due to sales from Rytary® which we launched in April 2015 and increased revenues resulting from the Tower acquisition, including sales from our anthelmintic products franchise.

**Cost of Revenues**

Cost of revenues was $15.3 million for the three month period ended June 30, 2016, a decrease of $3.3 million over the prior year period. The decrease was primarily due to a $3.5 million step-up to fair value charge of inventory in connection with the Tower acquisition in the prior year period, for which there were no comparable charges in the current period.

**Gross Profit**

Gross profit for the three month period ended June 30, 2016 was $35.6 million, or 70% of total revenues, as compared to $20.9 million, or 53% of total revenues, in the prior year period. The increase in gross profit during the current period was primarily attributable to lower cost of revenues as detailed above.

**Selling, General and Administrative Expenses**

Selling, general and administrative expenses were $16.1 million for the three month period ended June 30, 2016, an increase of $3.2 million as compared to $12.9 million in the prior year period. The increase in expenses during the current period was primarily driven by our sales force expansion to support the sales and marketing of Rytary®.
Research and Development Expenses

Total research and development expenses for the three month period ended June 30, 2016 were $4.7 million, an increase of $0.6 million as compared to $4.1 million in the prior year period. The increase during the current period was primarily driven by an increase in research and development expenses related to our branded initiatives.

Patent Litigation Expenses

Patent litigation expenses for the three month period ended June 30, 2016 were $1.8 million, as compared to $0.2 million for the three month period ended June 30, 2015. The increase in patent litigation expense was the result of legal activity related to patent matters in the current period for which there was no corresponding activity in the prior year period.

Corporate and Other

The following table sets forth corporate general and administrative expenses, as well as other items of income and expense presented below income or loss from operations for the three month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended June 30, 2016</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$27,210</td>
<td>$28,113</td>
</tr>
<tr>
<td>General and administrative expenses</td>
<td>(903) (3%)</td>
<td>(903) (3%)</td>
</tr>
<tr>
<td>Unallocated corporate expenses</td>
<td>(27,210)</td>
<td>(28,113)</td>
</tr>
<tr>
<td>Interest expense</td>
<td>(8,454)</td>
<td>(6,953) (1,501)</td>
</tr>
<tr>
<td>Interest income</td>
<td>340</td>
<td>294 (46)</td>
</tr>
<tr>
<td>Loss on debt extinguishment</td>
<td>— (16,903)</td>
<td>16,903 (100)%</td>
</tr>
<tr>
<td>Other income (expense), net</td>
<td>(237)</td>
<td>961 (1,198)</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(35,561)</td>
<td>(50,714) 15,153 (30)%</td>
</tr>
<tr>
<td>Benefit from income taxes</td>
<td>(1,249)</td>
<td>$1,447 (54)%</td>
</tr>
</tbody>
</table>

*Percentage exceeds 100%

General and Administrative Expenses

General and administrative expenses for the three month period ended June 30, 2016 were $27.2 million, a $0.9 million decrease over the same period in 2015. The decrease was principally driven by lower business development expenses, which largely consisted of transaction and/or integration-related activities related to the Tower acquisition in 2015, partially offset by increased information technology expenses, higher legal expenses and higher net inflationary and other costs.

Interest Expense

Interest expense in the three month period ended June 30, 2016 was $8.5 million, compared to $7.0 million of interest expense during the prior year period. The current year $8.5 million of interest expense was incurred on our outstanding convertible notes, of which $3.0 million was cash and $5.5 million was non-cash accretion of the debt discount attributable to the deferred financing costs and bifurcation of the conversion option of our convertible senior notes, which also increased the carrying value of the notes on our consolidated balance sheet. The prior year interest expense of $7.0 million related to our $435.0 million term loan with Barclays (which was repaid in full using the proceeds of our convertible notes issued subsequently in June 2015) and consisted of $6.3 million in cash interest expense incurred on the Barclays term loan as well as $0.7 million in amortization of deferred financing costs.

Interest Income

Interest income in the three month period ended June 30, 2016 was $0.3 million and was relatively consistent with the same period in 2015.

Loss on Debt Extinguishment

During the three month period ended June 30, 2015, we recognized a $16.9 million loss on debt extinguishment related to the repayment of our term loan with Barclays. There was no comparable loss in the current period.
Other Income (Expense), net

Other expense, net in the three month period ended June 30, 2016 was $0.2 million, as compared to other income, net of $1.0 million in the three month period ended June 30, 2015. The income in the prior year period included a gain on the sale of an ANDA in the amount of $1.0 million, for which there was no comparable gain in the current period.

Income Taxes

Our effective tax rate for the three months ended June 30, 2016 and 2015 was 32% and 59%, respectively. During the three month period ended June 30, 2016 and 2015, we recognized aggregate consolidated tax benefits of $1.2 million and $2.7 million, respectively, for U.S. domestic and foreign income taxes. The decrease in aggregate tax benefit during the current year period resulted from lower consolidated loss before taxes in the current year period, as compared to the prior year period in addition to a change in the timing and mix of U.S. and foreign income.


Overview

The following table sets forth our summarized, consolidated results of operations for the six month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Total revenues</td>
<td>$398,098</td>
<td>$357,278</td>
</tr>
<tr>
<td>Gross profit</td>
<td>175,574</td>
<td>144,085</td>
</tr>
<tr>
<td>Income from operations</td>
<td>42,352</td>
<td>11,205</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(21,444)</td>
<td>(15,253)</td>
</tr>
<tr>
<td>Benefit from income taxes</td>
<td>(8,335)</td>
<td>(7,068)</td>
</tr>
<tr>
<td>Net loss</td>
<td>(13,109)</td>
<td>(8,185)</td>
</tr>
</tbody>
</table>

* Percentage exceeds 100%

Consolidated total revenues for the six month period ended June 30, 2016 increased by 11% or $40.8 million to $398.1 million, compared to $357.3 million in the prior year period. The increase was primarily due to the addition of product revenues from the Tower acquisition that closed in March 2015, increased sales of diclofenac sodium gel, a product licensed under our agreement with Tolmar, the addition of sales from Rytary®, which we launched in April 2015, and the addition of sales from Emverm®, which we launched in March 2016. Product volumes (including acquisitions) and new product launches increased total revenues by 20.5% and 5.4%, respectively, while product selling price decreased total revenues by 14.5%, in each case compared to the prior year period.

Revenues from our Impax Generics division decreased by $11.6 million during the six month period ended June 30, 2016, as compared to the prior year period, driven primarily by lower revenues due to mixed results from both price and volume from products acquired in the Tower acquisition as well as from our legacy products. In addition, during the second quarter of 2016, the Company recorded shelf-stock adjustments totaling $15.0 million on diclofenac sodium gel and metaxalone as a result of a decline in price during the current year period. Revenues from Impax Specialty Pharma division increased $52.5 million during the six month period ended June 30, 2016 as compared to the prior year period, as a result of sales from Rytary® as well as increased sales from products acquired in the Tower acquisition, including sales from our anthelmintic products franchise.

Net loss for the six month period ended June 30, 2016 was $13.1 million, an increase of $4.9 million as compared to a net loss of $8.2 million for the six month period ended June 30, 2015. The increase in net loss compared to the prior year period was primarily attributable to the $48.0 million reserve recorded as a result of the uncertainty of collection of the receivable from Turing for reimbursement of Daraprim® chargebacks and Medicaid rebate liabilities, partially offset by higher operating profit as a result of an overall increase in consolidated total revenues during the current period as noted above. Refer to “Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk” for information related to the Turing reserve.
The following table sets forth results of operations for Impax Generics for the six month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Revenues:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impax Generics sales, net</td>
<td>$ 287,137</td>
<td>$ 297,232</td>
</tr>
<tr>
<td>Rx Partner</td>
<td>4,504</td>
<td>4,818</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>133</td>
<td>1,370</td>
</tr>
<tr>
<td>Total revenues</td>
<td>291,774</td>
<td>303,420</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>194,461</td>
<td>186,880</td>
</tr>
<tr>
<td>Gross profit</td>
<td>97,313</td>
<td>116,540</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>6,339</td>
<td>11,570</td>
</tr>
<tr>
<td>Research and development</td>
<td>31,684</td>
<td>23,754</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>269</td>
<td>2,110</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>38,292</td>
<td>37,434</td>
</tr>
<tr>
<td>Income from operations</td>
<td>$ 59,021</td>
<td>$ 79,106</td>
</tr>
</tbody>
</table>

Revenues

Total revenues for Impax Generics for the six month period ended June 30, 2016, were $291.8 million, a decrease of 4% over the same period in 2015, principally driven by increased competition in metaxalone as well as lower market share of generic Adderall XR®, partially offset by the increased sales of diclofenac sodium gel and Epinephrine Auto-Injector, both acquired in the Tower acquisition in March 2015. In addition, during the second quarter of 2016, the Company recorded shelf-stock adjustments totaling $15.0 million on diclofenac sodium gel and metaxalone as a result of a decline in price during the current year period.

Cost of Revenues

Cost of revenues was $194.5 million for the six month period ended June 30, 2016, an increase of $7.6 million compared to the prior year period, principally resulting from the increased costs related to product mix, increased product amortization incurred in connection with the Tower acquisition and costs related to our Middlesex, New Jersey manufacturing and packaging restructuring partially offset by the absence of Hayward remediation costs in the current period compared to the prior year period.

Gross Profit

Gross profit for the six month period ended June 30, 2016 was $97.3 million, or 33% of total revenues, as compared to $116.5 million, or 38% of total revenues, in the prior year period. The decrease in gross profit was primarily driven by the decrease in sales of certain products as described above including the shelf-stock adjustments partially offset by an increase in sales of diclofenac sodium gel and Epinephrine Auto-Injector, compared to the prior year period. The decrease in gross margin in the current period compared to the prior year period was primarily attributable to lower sales from our higher margin products versus the product sales mix for the prior year period.

Selling, General and Administrative Expenses

Selling, general and administrative expenses for the six month period ended June 30, 2016, were $6.3 million, as compared to $11.6 million for the six month period ended June 30, 2015. The decrease of $5.2 million compared to the prior year period was primarily due to a decrease in failure-to-supply claims and trade accounts receivable reserves in the current period, partially offset by increases in annual FDA fees and increased expenses related to temporary and contract employees.

Research and Development Expenses

Total research and development expenses for the six month period ended June 30, 2016 were $31.7 million, an increase of 33%, as compared to $23.8 million in the prior year period, primarily due to an increase in external development costs due to
increased research and development activities, including a full year of research and development expenses from the Tower acquired companies.

**Patent Litigation Expenses**

Patent litigation expenses for the six month period ended June 30, 2016 were $0.3 million, as compared to $2.1 million for the six month period ended June 30, 2015. The decrease in patent litigation expenses of $1.8 million compared to the prior year period was the result of legal activity related to cases in the prior year period for which there was no corresponding activity in the current year period.

**Impax Specialty Pharma**

The following table sets forth results of operations for Impax Specialty Pharma for the six month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td></td>
<td>Dollars</td>
<td>Percentage</td>
</tr>
<tr>
<td>Revenues:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impax Specialty Pharma sales, net</td>
<td>$106,324</td>
<td>$53,403</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>$455</td>
<td>(455)</td>
</tr>
<tr>
<td>Total revenues</td>
<td>$106,779</td>
<td>$53,858</td>
</tr>
<tr>
<td>Cost of revenues</td>
<td>$28,063</td>
<td>$26,313</td>
</tr>
<tr>
<td>Gross profit</td>
<td>$78,261</td>
<td>$27,545</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>$29,951</td>
<td>$27,768</td>
</tr>
<tr>
<td>Research and development</td>
<td>$9,084</td>
<td>$8,203</td>
</tr>
<tr>
<td>Patent litigation expense</td>
<td>$2,979</td>
<td>$344</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>$42,014</td>
<td>$36,315</td>
</tr>
<tr>
<td>Income (loss) from operations</td>
<td>$36,247</td>
<td>$(8,770)</td>
</tr>
</tbody>
</table>

* Percentage exceeds 100%

**Revenues**

Total revenues for Impax Specialty Pharma were $106.3 million for the six month period ended June 30, 2016, an increase of $52.5 million over the same period in the prior year, primarily due to increased sales from Rytary® which we launched in April 2015 and increased revenues resulting from the Tower acquisition, including sales from our anthelmintic products franchise.

**Cost of Revenues**

Cost of revenues was $28.1 million for the six month period ended June 30, 2016, an increase of $1.8 million over the prior year period, primarily due to increased costs related to increased product sales. Cost of revenues for the prior year period included a $4.4 million step-up to fair value of inventory charge in connection with the Tower acquisition in the prior year period, for which there were no comparable charges in the current period.

**Gross Profit**

Gross profit for the six month period ended June 30, 2016 was $78.3 million, or 74% of total revenues, as compared to $27.5 million, or 51% of total revenues, in the prior year period. The increase in gross profit was primarily attributable to lower cost of revenues as a percentage of net sales.

**Selling, General and Administrative Expenses**

Selling, general and administrative expenses were $30.0 million for the six month period ended June 30, 2016, an increase of $2.2 million as compared to $27.8 million in the prior year period. The increase in expenses during the current period was primarily driven by our sales force expansion to support sales and marketing activities for Rytary® and increased advertising and promotion expenses to support the new indication of Zomig® nasal spray approved by the FDA in June 2015. The increase in

62
expenses during the current period was partially offset by training expenses incurred during the six month period ending June 30, 2015 to support the launch of Rytrary®, for which there was no comparable expense during the current period.

Research and Development Expenses

Total research and development expenses for the six month period ended June 30, 2016 were $9.1 million, an increase of $0.9 million as compared to $8.2 million in the prior year period. The increase during the current period was primarily driven by an increase in research and development expenses related to our branded initiatives.

Patent Litigation Expenses

Patent litigation expenses for the six month period ended June 30, 2016 were $3.0 million, as compared to $0.3 million for the six month period ended June 30, 2015. The increase in patent litigation expense was the result of legal activity related to patent matters in the current period for which there was no corresponding activity in the prior year period.

Corporate and Other

The following table sets forth corporate general and administrative expenses, as well as other items of income and expense presented below income or loss from operations for the six month periods ended June 30, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>General and administrative expenses</td>
<td>$52,916</td>
<td>$59,131</td>
</tr>
<tr>
<td>Unallocated corporate expenses</td>
<td>(52,916)</td>
<td>(59,131)</td>
</tr>
<tr>
<td>Interest expense</td>
<td>(16,785)</td>
<td>(10,928)</td>
</tr>
<tr>
<td>Interest income</td>
<td>673</td>
<td>578</td>
</tr>
<tr>
<td>Reserve for Turing receivable</td>
<td>(48,043)</td>
<td>—</td>
</tr>
<tr>
<td>Loss on debt extinguishment</td>
<td>—</td>
<td>(16,903)</td>
</tr>
<tr>
<td>Other income, net</td>
<td>359</td>
<td>795</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(116,712)</td>
<td>(85,589)</td>
</tr>
<tr>
<td>Benefit from income taxes</td>
<td>$ (8,335)</td>
<td>$ (7,068)</td>
</tr>
</tbody>
</table>

* Percentage exceeds 100%

General and Administrative Expenses

General and administrative expenses for the six month period ended June 30, 2016 were $52.9 million, a $6.2 million decrease over the same period in 2015. The decrease was principally driven by lower business development expenses in the current period; expenses in the prior year period included Tower acquisition related costs for which there were no comparable amounts in the current period.

Interest Expense

Interest expense in the six month period ended June 30, 2016 was $16.8 million, compared to $10.9 million of interest expense during the prior year period. The current year $16.8 million of interest expense was incurred on our outstanding convertible notes, of which $6.0 million was cash and $10.8 million was non-cash accretion of the debt discount attributable to the deferred financing costs and bifurcation of the conversion option of our convertible senior notes, which also increased the carrying value of the notes on our consolidated balance sheet. The prior period interest expense of $10.9 million related to our $435.0 million term loan with Barclays (which was repaid in full using the proceeds of our convertible notes issued subsequently in June 2015), and consisted of $2.3 million in commitment fees incurred prior to the closing of the Tower acquisition, $7.5 million of interest expense and $1.1 million in amortization of deferred financing costs.

Interest Income

Interest income in the six month period ended June 30, 2016 was $0.7 million and was relatively consistent with the same period in 2015.

Reserve for Turing Receivable
During the six month period ended June 30, 2016, we recorded a reserve of $48.0 million, representing the full amount of the estimated receivable due from Turing for reimbursement of Daraprim® chargebacks and Medicaid rebate liabilities as of June 30, 2016. Refer to “Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk” for additional information related to the Turing receivable.

Other Income (Expense), net

Other income, net in the six month period ended June 30, 2016 was $0.4 million, as compared to other income, net of $0.8 million in the six month period ended June 30, 2015. The income in the current year was primarily driven by a legal settlement payment received during the current period, while the prior year income was attributable to the gain on sale of an ANDA for $1.0 million for which there was no comparable amount in the current year period.

Income Taxes

Our effective tax rate for the six months ended June 30, 2016 and 2015 was 39% and 46%, respectively. During the six month period ended June 30, 2016 and 2015, we recognized aggregate consolidated tax benefits of $8.3 million and $7.1 million, respectively, for U.S. domestic and foreign income taxes. The amount of tax benefit recorded for the six months ended June 30, 2016 reflects our estimate as of such date of the annual effective tax rate applied to the year-to-date loss. A discrete tax benefit of $17.4 million for the reserve recorded against the Turing receivable as described above under “Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk” is also reflected in income tax benefit for the six months ended June 30, 2016. Excluding discrete items, our estimate of the annualized effective tax rate for the six months ended June 30, 2016 was 32%. The effective tax rate, including the effects of discrete tax income tax items, was 39% for the six months ended June 30, 2016. Due to the taxable loss for the six months ended June 30, 2016, the discrete tax benefit increased the tax rate. The increase in the aggregate tax benefit compared to the prior year period resulted from a higher consolidated loss before taxes in the six month period ended June 30, 2016, as compared to the same period in the prior year. The increase in tax benefit during the six month period ended June 30, 2016 was also a result of a change in the timing and mix of U.S. and foreign income; the exclusion of a zero-rate jurisdiction from the interim effective tax rate calculation; the inclusion of the federal research and development credit which was permanently reinstated in December 2015; and an increase in the deferred tax asset related to a state R&D tax credit carryforward in a state with indefinite carryforwards. We are closely monitoring the events and circumstances that determine the need for a valuation allowance related to state research and development tax credit carryforwards and have determined that, based upon the evaluation of the provisions of ASC 740, no valuation allowance will be recorded at this time.

Liquidity and Capital Resources

We generally fund our operations with cash flows from operating activities, although we have also funded our operations with proceeds from the sale of debt and equity securities. Our cash flows from operating activities consist primarily of the proceeds from sales of our products and services.

We expect to incur significant operating expenses, including research and development and patent litigation expenses, for the foreseeable future. In addition, we are generally required to make cash expenditures to manufacture and/or acquire finished product inventory in advance of selling the finished product to our customers and collecting payment, which may result in a significant use of cash. We believe our existing cash and cash equivalents, together with cash expected to be generated from operations and our revolving line of credit facility, will be sufficient to meet our cash requirements through the next 12 months. We may, however, seek additional financing through alliance, collaboration and licensing agreements, as well as from the debt and equity capital markets, to fund capital expenditures, research and development plans, potential acquisitions, and potential revenue shortfalls due to delays in new product introductions or otherwise. We cannot be assured that such financing will be available on favorable terms, or at all.

Cash and Cash Equivalents

At June 30, 2016, we had $366.8 million in cash and cash equivalents, an increase of $26.5 million as compared to December 31, 2015. As more fully discussed below, the increase in cash and cash equivalents during the six month period ended June 30, 2016 was primarily driven by $23.8 million of net cash provided by operating activities and $9.7 million of net cash provided by financing activities, partially offset by $7.7 million of net cash used in investing activities.


64
The Amended and Restated Credit Agreement contains certain negative covenants (subject to exceptions, materiality thresholds and other allowances) including, without limitation, negative covenants that limit our and our restricted subsidiaries' ability to incur additional debt, guarantee other obligations, grant liens on assets, make loans, acquisitions or other investments, dispose of assets, make optional payments in connection with or modify certain debt instruments, pay dividends or make other payments on capital stock, engage in mergers or consolidations, enter into arrangements that restrict our and our restricted subsidiaries' ability to pay dividends or grant liens, engage in transactions with affiliates, or change our fiscal year. The significant reduction in accounts receivable was due to cash collections in the current year period of high sales during the fourth quarter of 2015. Depreciation and amortization expense increased primarily as a result of higher asset balances resulting from the Tower acquisition. The above items contributing to increased net cash were partially offset by cash payments related to accrued profit sharing and royalties to third parties, primarily related to Diclofenac sodium gel under the Tolmar agreement.

The Amended and Restated Credit Agreement also includes negative covenants that limit our and our restricted subsidiaries' ability to pay dividends or grant liens, engage in transactions with affiliates, or change our fiscal year. The significant reduction in accounts receivable was due to cash collections in the current year period of high sales during the fourth quarter of 2015. Depreciation and amortization expense increased primarily as a result of higher asset balances resulting from the Tower acquisition. The above items contributing to increased net cash were partially offset by cash payments related to accrued profit sharing and royalties to third parties, primarily related to Diclofenac sodium gel under the Tolmar agreement.

Outstanding Debt Obligations

Royal Bank of Canada Credit Facilities

On August 4, 2015, we entered into a senior secured revolving credit facility of up to $100 million, pursuant to a credit agreement, by and among us, the lenders party thereto from time to time and Royal Bank of Canada, as administrative agent and collateral agent (the "Revolving Credit Facility Agreement"). No borrowings were drawn from the Revolving Credit Facility from its inception through August 3, 2016. The Revolving Credit Facility was originally set to mature on August 4, 2020.

On August 3, 2016, we entered into a restatement agreement with Royal Bank of Canada, as administrative agent, and the lenders and guarantors party thereto (the "Restatement Agreement"). The Restatement Agreement amends and restates the existing Revolving Credit Facility Agreement (as amended and restated, the "Amended and Restated Credit Agreement") to, among other things, (i) add a term loan feature to allow for the borrowing of up to $400.0 million of term loans (the "Term Loan Facility") by us in accordance with the terms of the Amended and Restated Credit Agreement and (ii) increase the aggregate principal amount of revolving loans permitted under the Amended and Restated Credit Agreement (the "Revolving Credit Facility," and, together with the Term Loan Facility, the "RBC Credit Facilities"), from $100.0 million to $200.0 million and (iii) extend the maturity date of the Revolving Credit Facility from August 4, 2020 to August 4, 2021.

Borrowings under the Amended and Restated Credit Agreement will accrue interest at a rate equal to LIBOR or the base rate, plus an applicable margin. The applicable margin may be increased or reduced by 0.25% based on our total net leverage ratio. Up to $12.5 million of the Revolving Credit Facility is available for issuance of letters of credit and any such letters of credit will reduce the amount available under the Revolving Credit Facility on a dollar-for-dollar basis. We are required to pay a commitment fee to the lenders on the average daily unused portion of the Revolving Credit Facility at 0.50% or 0.375% per annum, depending on our total net leverage ratio.

The Amended and Restated Credit Agreement also includes a financial maintenance covenant whereby we must not permit our total net leverage ratio in any 12-month period to exceed 5.00:1.00, as tested at the end of each fiscal quarter.
The Amended and Restated Credit Agreement contains events of default, including, without limitation (subject to customary grace periods and materiality thresholds), events of default upon (i) the failure to make payments pursuant to the terms of the Amended and Restated Credit Agreement, (ii) violation of covenants, (iii) incorrectness of representations and warranties, (iv) cross-default and cross-acceleration to other material indebtedness, (v) bankruptcy events, (vi) material monetary judgments (to the extent not covered by insurance), (vii) certain matters arising under the Employee Retirement Income Security Act of 1974, as amended, that could reasonably be expected to result in a material adverse effect, (viii) the actual or asserted invalidity of the documents governing the RBC Credit Facilities, any material guarantees or the security interests (including priority thereof) required under the Amended and Restated Credit Agreement and (ix) the occurrence of a change of control (as defined therein). Upon the occurrence of certain events of default, the obligations under the Amended and Restated Credit Agreement may be accelerated and any remaining commitments thereunder may be terminated.

The full amount of the proceeds from the Term Loan Facility of $400.0 million, along with $196.4 million of cash on our consolidated balance sheet, were used to finance the Teva Transaction, including transaction fees, on its closing date of August 3, 2016. The full amount of the $200.0 million Revolving Credit Facility remains available to us for working capital and other general corporate purposes.

2% Convertible Senior Notes due June 2022

On June 30, 2015, we issued an aggregate principal amount of $600.0 million of 2.00% Convertible Senior Notes due June 2022 (the “Notes”) in a private placement offering, which are our senior unsecured obligations. The Notes were issued pursuant to an Indenture dated June 30, 2015 (the “Indenture”) between us and Wilmington Trust, N.A. as trustee. The Indenture includes customary covenants and sets forth certain events of default after which the Notes may be due and payable immediately. The Notes will mature on June 15, 2022, unless earlier redeemed, repurchased or converted. The Notes bear interest at a rate of 2.00% per year, and interest is payable semiannually in arrears on June 15 and December 15 of each year, beginning from December 15, 2015.

The conversion rate for the Notes is initially set at 15.7858 shares per $1,000 of principal amount, which is equivalent to an initial conversion price of $63.35 per share of our common stock. If a Make-Whole Fundamental Change (as defined in the Indenture) occurs or becomes effective prior to the maturity date and a holder elects to convert its Notes in connection with the Make-Whole Fundamental Change, we are obligated to increase the conversion rate for the Notes so surrendered by a number of additional shares of our common stock as prescribed in the Indenture. Additionally, the conversion rate is subject to adjustment in the event of an equity restructuring transaction such as a stock dividend, stock split, spinoff, rights offering, or recapitalization through a large, nonrecurring cash dividend (“standard antidilution provisions,” per ASC 815-40).

The Notes are convertible at the option of the holders at any time prior to the close of business on the business day immediately preceding December 15, 2021 only under the following circumstances:

(i) If during any calendar quarter commencing after the quarter ending September 30, 2015 (and only during such calendar quarter) the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than 130% of the conversion price on each applicable trading day; or

(ii) If during the 5 business day period after any 10 consecutive trading day period (the “measurement period”) in which the trading price per $1,000 of principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last report sale price of our common stock and the conversion rate on each such trading day; or

(iii) Upon the occurrence of corporate events specified in the Indenture.

On or after December 15, 2021 until the close of business on the second scheduled trading day immediately preceding the maturity date, the holders may convert their Notes at any time, regardless of the foregoing circumstances. We may satisfy our conversion obligation by paying or delivering, as the case may be, cash, shares of our common stock, or a combination of cash and shares of our common stock, at our election and in the manner and subject to the terms and conditions provided in the Indenture.

Concurrently with the offering of the Notes and using a portion of the proceeds from the sale of the Notes, we entered into a series of convertible note hedge and warrant transactions (the “Note Hedge Transactions” and “Warrant Transactions”) which are designed to reduce the potential dilution to our stockholders and/or offset the cash payments we are required to make in excess of the principal amount upon conversion of the Notes. The Note Hedge Transactions and Warrant Transactions are separate transactions, in each case, entered into by us with a financial institution and are not part of the terms of the Notes. These transactions will not affect any holder’s rights under the Notes, and the holders of the Notes have no rights with respect to the

For the three and six months ended June 30, 2016, we recognized $8.5 million and $16.8 million, respectively, of interest expense related to the Notes, of which $3.0 million and $6.0 million, respectively, was cash and $5.5 million and $10.8 million, respectively, was non-cash accretion of the debt discounts recorded. As the Notes mature in 2022, they have been classified as long-term debt on our consolidated balance sheets, with a carrying value of $435.3 million and $424.6 million as of June 30, 2016 and December 31, 2015, respectively. Accrued interest payable on the Notes of $0.5 million as of both June 30, 2016 and December 31, 2015 is included in accrued expenses on our consolidated balance sheets.

Off-Balance Sheet Arrangements

We did not have any off-balance sheet arrangements as of June 30, 2016.

Commitments and Contractual Obligations

As of June 30, 2016, there were no significant changes to our contractual obligations as set forth in Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2015.

Recently Issued Accounting Standards

Recently issued accounting standards are discussed in "Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 5. Recent Accounting Pronouncements" above.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Our cash equivalents and short-term investments included a portfolio of high credit quality securities, including U.S. government securities, treasury bills, short-term commercial paper, and highly-rated money market funds. We had no short-term investments as of June 30, 2016 or December 31, 2015.

Financial instruments that potentially subject us to concentrations of credit risk consist principally of cash equivalents, short-term investments and accounts receivable. We limit our credit risk associated with cash equivalents and short-term investments by placing investments with high credit quality securities, including U.S. government securities, treasury bills, corporate debt, short-term commercial paper and highly-rated money market funds. As discussed above under “Outstanding Debt Obligations,” we are party to a Term Loan facility of $400.0 million and a Revolving Credit Facility of up to $200.0 million pursuant to the RBC Credit Facilities. The amount under our Revolving Credit Facility is available for working capital and other general corporate purposes. We also issued the Notes in a private placement offering on June 30, 2015, which are our senior unsecured obligations, as described above under “Outstanding Debt Obligations.”

We limit our credit risk with respect to accounts receivable by performing credit evaluations when deemed necessary. We do not require collateral to secure amounts owed to us by our customers. As discussed above under "Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 4. Summary of Significant Accounting Policies - Concentration of Credit Risk" we recorded a reserve in the amount of $48.0 million on our consolidated statement of operations for the period ended March 31, 2016, representing the full amount of the estimated receivable due from Turing for reimbursement of Daraprim® chargebacks and Medicaid rebate liabilities as of March 31, 2016. There was no change to the reserve as of June 30, 2016.

We do not use derivative financial instruments or engage in hedging activities in our ordinary course of business and have no material foreign currency exchange exposure or commodity price risks. See “Item 1. Financial Information - Notes to Interim Consolidated Financial Statements - Note 22. Segment Information” for more information regarding the value of our investment in Impax Laboratories (Taiwan), Inc.

We do not believe that inflation has had a significant impact on our revenues or operations to date.
Item 4. Controls and Procedures

Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) that are designed to ensure that information required to be disclosed by us in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including its principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report on Form 10-Q. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures, as defined in Rule 13a-15(e) of the Exchange Act, were effective as of June 30, 2016 at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

During the quarter ended June 30, 2016, there were no changes in the Company’s internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.

Limitations on the Effectiveness of Controls

Systems of disclosure controls and internal controls over financial reporting and their associated policies and procedures, no matter how well conceived and operated, are designed to provide a reasonable, but not an absolute, level of assurance the objectives of the system of control are achieved. Further, the design of a control system must be balanced against resource constraints, and therefore the benefits of controls must be considered relative to their costs. Given the inherent limitations in all systems of controls, no evaluation of controls can provide absolute assurance all control issues and instances of fraud, if any, within a company have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Accordingly, given the inherent limitations in a cost-effective system of internal control, financial statement misstatements due to error or fraud may occur and may not be detected. Our disclosure controls and procedures are designed to provide a reasonable assurance of achieving their objectives. We conduct periodic evaluations of our systems of controls to enhance, where necessary, our control policies and procedures.
PART II - OTHER INFORMATION

Item 1. Legal Proceedings

Information pertaining to legal proceedings can be found in “Item 1. Financial Statements - Notes to Interim Consolidated Financial Statements - Note 21. Legal and Regulatory Matters” and is incorporated by reference herein.

Item 1A. Risk Factors

During the quarter ended June 30, 2016, there were no material changes to the risk factors included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2016. Please carefully consider the information set forth in this Quarterly Report on Form 10-Q and the risk factors discussed in “Part I, Item 1A. Risk Factors” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and our Quarterly Report on Form 10-Q for the quarter ended March 31, 2016, which could materially affect our business, consolidated financial condition or consolidated results of operations. The risks described herein, and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and our Quarterly Report on Form 10-Q for the quarter ended March 31, 2016 are not the only risks we face. Additional risks and uncertainties not currently known to us or which we currently deem to be immaterial may also materially adversely affect our business, consolidated financial condition and/or consolidated results of operations.

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

Issuer Purchases of Equity Securities

The following table provides information regarding the purchases of our equity securities by us during the three months ended June 30, 2016.

<table>
<thead>
<tr>
<th>Period</th>
<th>Total Number of Shares (or Units) Purchased(1)</th>
<th>Average Price Paid Per Share (or Unit)</th>
<th>Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs</th>
<th>Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1, 2016 to April 30, 2016</td>
<td>82,390</td>
<td>$33.41</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>May 1, 2016 to May 31, 2016</td>
<td>16,965</td>
<td>$29.66</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>June 1, 2016 to June 30, 2016</td>
<td>86</td>
<td>$35.63</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(1) Represents shares of our common stock that we accepted during the indicated periods as a tax withholding from certain of our employees in connection with the vesting of shares of restricted stock pursuant to the terms of our 2002 Plan.

Item 3. Defaults Upon Senior Securities.

Not Applicable.

Item 4. Mine Safety Disclosures.

Not Applicable.

Item 5. Other Information.

Not Applicable.
### Item 6. Exhibits.

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Description of Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.1</td>
<td>Amendment No. 4 to Amended and Restated Bylaws of the Company, as amended effective as of May 17, 2016.*</td>
</tr>
<tr>
<td>3.1.2</td>
<td>Amendment No. 3 to Amended and Restated Bylaws of the Company, as amended effective as of October 7, 2015.*</td>
</tr>
<tr>
<td>3.1.3</td>
<td>Amendment No. 2 to Amended and Restated Bylaws of the Company, as amended effective as of July 7, 2015.*</td>
</tr>
<tr>
<td>3.1.4</td>
<td>Amendment No. 1 to Amended and Restated Bylaws of the Company, effective as of March 24, 2015.*</td>
</tr>
<tr>
<td>3.1.5</td>
<td>Amended and Restated Bylaws of the Company, effective as of May 14, 2014.*</td>
</tr>
<tr>
<td>10.1</td>
<td>First Amendment dated as of May 31, 2016 to the Distribution, License, Development and Supply Agreement by and between AstraZeneca UK Limited and the Company dated as of January 31, 2012.**</td>
</tr>
<tr>
<td>10.2.1</td>
<td>Asset Purchase Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**†</td>
</tr>
<tr>
<td>10.2.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Asset Purchase Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.*</td>
</tr>
<tr>
<td>10.3.1</td>
<td>Asset Purchase Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**†</td>
</tr>
<tr>
<td>10.3.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Asset Purchase Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.4.1</td>
<td>Supply Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.4.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Supply Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.5.1</td>
<td>Supply Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.5.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Supply Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.6</td>
<td>Employment Agreement dated as of July 14, 2016 by and between the Company and Douglas S. Boothe.††</td>
</tr>
<tr>
<td>10.7</td>
<td>Restatement Agreement dated as of August 3, 2016 by and among the Company, the guarantors party thereto, Royal Bank of Canada, as administrative agent, and the lenders party thereto.*</td>
</tr>
</tbody>
</table>
11.1 Statement re computation of per share earnings (incorporated by reference to Note 15 in the Notes to Interim Consolidated Financial Statements in this Quarterly Report on Form 10-Q).

31.1 Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*

31.2 Certification of the Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*

32.1 Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*

32.2 Certification of the Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*


* Filed herewith.

** Confidential treatment requested for certain portions of this exhibit pursuant to Rule 24b-2 under the Exchange Act, which portions are omitted and filed separately with the SEC.

† Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule to the SEC upon request.

†† Indicates management contract or compensatory plan or arrangement.
Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: August 9, 2016

Impax Laboratories, Inc.
(Registrant)

By: /s/ Fred Wilkinson
Fred Wilkinson
President and Chief Executive Officer
(Principal Executive Officer)

By: /s/ Bryan M. Reasons
Bryan M. Reasons
Chief Financial Officer and
Senior Vice President, Finance
(Principal Financial and Accounting Officer)
<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Description of Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.1</td>
<td>Amendment No. 4 to Amended and Restated Bylaws of the Company, as amended effective as of May 17, 2016.*</td>
</tr>
<tr>
<td>3.1.2</td>
<td>Amendment No. 3 to Amended and Restated Bylaws of the Company, as amended effective as of October 7, 2015.*</td>
</tr>
<tr>
<td>3.1.3</td>
<td>Amendment No. 2 to Amended and Restated Bylaws of the Company, as amended effective as of July 7, 2015.*</td>
</tr>
<tr>
<td>3.1.4</td>
<td>Amendment No. 1 to Amended and Restated Bylaws of the Company, effective as of March 24, 2015.*</td>
</tr>
<tr>
<td>3.1.5</td>
<td>Amended and Restated Bylaws of the Company, effective as of May 14, 2014.*</td>
</tr>
<tr>
<td>10.1</td>
<td>First Amendment dated as of May 31, 2016 to the Distribution, License, Development and Supply Agreement by and between AstraZeneca UK Limited and the Company dated as of January 31, 2012.**</td>
</tr>
<tr>
<td>10.2.1</td>
<td>Asset Purchase Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**†</td>
</tr>
<tr>
<td>10.2.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Asset Purchase Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.*</td>
</tr>
<tr>
<td>10.3.1</td>
<td>Asset Purchase Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**††</td>
</tr>
<tr>
<td>10.3.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Asset Purchase Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.4.1</td>
<td>Supply Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.4.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Supply Agreement between Teva Pharmaceutical Industries Ltd. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.5.1</td>
<td>Supply Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.5.2</td>
<td>Amendment No. 1 dated as of June 30, 2016 to the Supply Agreement by and among Actavis Elizabeth LLC, Actavis Group PTC Ehf., Actavis Holdco US, Inc., Actavis LLC, Actavis Mid Atlantic LLC, Actavis Pharma, Inc., Actavis South Atlantic LLC, Andrx LLC, Breath Ltd., The Rugby Group, Inc., Watson Laboratories, Inc. and the Company dated as of June 20, 2016.**</td>
</tr>
<tr>
<td>10.6</td>
<td>Employment Agreement dated as of July 14, 2016 by and between the Company and Douglas S. Boothe.* ††</td>
</tr>
<tr>
<td>10.7</td>
<td>Restatement Agreement dated as of August 3, 2016 by and among the Company, the guarantors party thereto, Royal Bank of Canada, as administrative agent, and the lenders party thereto.*</td>
</tr>
<tr>
<td>11.1</td>
<td>Statement re computation of per share earnings (incorporated by reference to Note 15 in the Notes to Interim Consolidated Financial Statements in this Quarterly Report on Form 10-Q).</td>
</tr>
</tbody>
</table>
31.1 Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*

31.2 Certification of the Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*

32.1 Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*

32.2 Certification of the Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*


* Filed herewith.

** Confidential treatment requested for certain portions of this exhibit pursuant to Rule 24b-2 under the Exchange Act, which portions are omitted and filed separately with the SEC.

† Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule to the SEC upon request.

†† Indicates management contract or compensatory plan or arrangement.
The Amended and Restated Bylaws of Impax Laboratories, Inc., as amended (the “Bylaws”) are hereby amended as follows:

1. Section 14 of Article III shall be amended and restated in its entirety to read as follows:

   “SECTION 14. NUMBER. The authorized number of directors shall be no less than one nor more than seven. Within the foregoing limits, the number of directors shall be fixed from time to time by resolution adopted by the Board. (Del Code Ann., tit. 8, §§ 141(b)).”

2. Except as expressly modified hereby, the Bylaws and all the provisions contained therein shall remain in full force and effect.

This Amendment No. 4 to the Bylaws was adopted by the Board of Directors of Impax Laboratories, Inc., effective May 17, 2016.

/s/ Mark A. Schlossberg
Name: Mark A. Schlossberg
Title: Senior VP, General Counsel and Corporate Secretary
The Amended and Restated Bylaws of Impax Laboratories, Inc., as amended (the “Bylaws”) are hereby amended as follows:

1. Section 14 of Article III shall be amended and restated in its entirety to read as follows:

   “SECTION 14. NUMBER. The authorized number of directors shall be no less than one nor more than nine. Within the foregoing limits, the number of directors shall be fixed from time to time by resolution adopted by the Board. (Del Code Ann., tit. 8, §§ 141(b)).”

2. Except as expressly modified hereby, the Bylaws and all the provisions contained therein shall remain in full force and effect.

This Amendment No. 3 to the Bylaws was adopted by the Board of Directors of Impax Laboratories, Inc., effective October 7, 2015

/s/ Mark A. Schlossberg
Name: Mark A. Schlossberg
Title: Senior VP, General Counsel and Corporate Secretary
AMENDMENT NO. 2 TO
AMENDED AND RESTATED BYLAWS OF
IMPAX LABORATORIES, INC., AS AMENDED

The Amended and Restated Bylaws of Impax Laboratories, Inc., as amended (the “Bylaws”) are hereby amended as follows:

1. Section 14 of Article III shall be amended and restated in its entirety to read as follows:

“SECTION 14. NUMBER. The authorized number of directors shall be no less than one nor more than eight. Within the foregoing limits, the number of directors shall be fixed from time to time by resolution adopted by the Board. (Del Code Ann., tit. 8, §§ 141(b)).”

2. Except as expressly modified hereby, the Bylaws and all the provisions contained therein shall remain in full force and effect.

This Amendment No. 2 to the Bylaws was adopted by the Board of Directors of Impax Laboratories, Inc., effective July 7, 2015.

/s/ Mark A. Schlossberg
Name: Mark A. Schlossberg
Title: Senior VP, General Counsel and Corporate Secretary

SC1:3818233.5
AMENDMENT NO. 1 TO
AMENDED AND RESTATED BYLAWS OF IMPAX LABORATORIES, INC.

The Amended and Restated Bylaws of Impax Laboratories, Inc. (the “Bylaws”) are hereby amended as follows:

1. Section 5 of Article II shall be amended and restated in its entirety to read as follows:

   “SECTION 5. QUORUM. At all meetings of stockholders, except where otherwise provided by statute, by the Certificate, or by these Bylaws, the presence, in person, by remote communication, if applicable, or represented by proxy duly authorized, of the holders of a majority of the issued and outstanding shares of stock entitled to vote thereat shall constitute a quorum for the transaction of business. Where a separate vote by a class, classes or series is required, except where otherwise provided by the statute, the Certificate or these Bylaws, a majority of the outstanding shares of such class, classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.”

2. Section 6 of Article II shall be amended and restated in its entirety to read as follows:

   “SECTION 6. VOTING. Unless otherwise provided in the Certificate, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. The Board, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his discretion, may require that any votes cast at a meeting of stockholders shall be cast by written ballot. Except as otherwise provided by statute, by the Certificate or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of shares present in person, by remote communication, if applicable, or represented by proxy at the
meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by the Certificate, each director shall be elected by the affirmative vote of the majority of the votes cast with respect to such director (meaning the number of shares voted “for” a nominee must exceed the number of shares voted “against” such nominee) at any meeting for the election of directors at which a quorum is present; provided that each director shall be elected by a plurality of the votes cast (instead of by votes cast for or against a nominee) at any meeting at which a quorum in present for which the Board determines that the number of nominees exceeds the number of directors to be elected at such election and such determination has not been rescinded by the Board on or prior to the tenth day preceding the date the Corporation first mails its notice of meeting for such meeting to the stockholders (a “Contested Election”). In an election other than a Contested Election, stockholders will be given the choice to cast votes “for” or “against” the election of directors or to “abstain” from such vote (with abstentions and broker non-votes not counted as a vote cast “for” or “against” the election of such candidate), and stockholders shall not have the ability to cast any other vote with respect to such election of directors. In a Contested Election, stockholders will be given the choice to cast “for” or “withhold” votes for the election of directors and shall not have the ability to cast any other vote with respect to such election of directors.”

3. Except as expressly modified hereby, the Bylaws and all the provisions contained therein shall remain in full force and effect.

This Amendment No. 1 to the Bylaws was adopted by the Board of Directors of Impax Laboratories, Inc., effective March 24, 2015.

/s/ Mark A. Schlossberg
Name: Mark A. Schlossberg
Title: Senior VP, General Counsel and Corporate Secretary

-2-
BYLAWS
OF
IMPAX LABORATORIES, INC.
(a Delaware corporation)

(Amended and Restated as of May 14, 2014)

ARTICLE I
OFFICES

SECTION 1. OFFICES. The Corporation shall maintain its registered office in the State of Delaware at 32 Loockerman Square, Suite L-100, in the County of Kent, and its resident agent at such address is the Prentice-Hall Corporation System, Inc. The Corporation may also have and maintain offices in such other places in the United States or elsewhere as the Board of Directors of the Corporation (the “Board”) may, from time to time, determine or as the business of the Corporation may require. (Del Code Ann., tit. 8, §131).

ARTICLE II
MEETINGS OF STOCKHOLDERS

SECTION 2. ANNUAL MEETINGS. Annual meetings of stockholders for the election of directors and for such other business as may properly come before such meeting in accordance with all applicable requirements of these Bylaws and the General Corporation Law of the State of Delaware, as amended from time to time (the “DGCL”), shall be held at such place, either within or without the State of Delaware, and at such time and date as shall from time to time be determined by the Board. Any previously scheduled annual meeting of the stockholders may be postponed by action of the Board taken prior to the time previously scheduled for such annual meeting of stockholders. The Board may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the DGCL. (Del Code Ann., tit. 8, §211(a), (b)).

SECTION 3. SPECIAL MEETINGS. Special meetings of stockholders, unless otherwise prescribed by the DGCL or the Restated Certificate of Incorporation of the Corporation (the “Certificate”), may be called by the Chairman of the Board, the Chief Executive Officer or by resolution adopted by a majority of the total number of authorized directors (whether or not there exists any vacancies in previously authorized directorships at the time any such resolution is presented to the Board for adoption). Only such business as is specified in the Corporation’s notice of any such special meeting of stockholders shall come before, and be conducted at, such meeting. A special meeting shall be held at such place, on such date and at such time as shall be fixed by the Board. (Del Code Ann., tit. 8, §211(d)).

SECTION 4. NOTICE OF MEETINGS. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than ten (10) days nor more than sixty (60) days before the date of any such meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at any such meeting. If mailed, notice is 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. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder 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. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given. (Del Code Ann., tit. 8, §§229, 232).
SECTION 5. QUORUM. At all meetings of stockholders, except where otherwise provided by statute, by the Certificate, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the issued and outstanding shares of stock entitled to vote thereat shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. (Del. Code Ann., tit. 8, §216).

SECTION 6. VOTING. Unless otherwise provided in the Certificate, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. The Board, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his discretion, may require that any votes cast at a meeting of stockholders shall be cast by written ballot. Except as otherwise provided by statute, by applicable stock exchange rules, by the Certificate or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class, classes or series is required, except where otherwise provided by the statute, the Certificate or these Bylaws, a majority of the outstanding shares of such class, classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute, the Certificate or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class, classes or series. (Del Code Ann., tit. 8, §§212, 216).

SECTION 7. INSPECTORS. The Board may, in advance of any meeting of stockholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If any of the inspectors so appointed shall fail to appear or act, the chairman of the meeting may, or if inspectors shall not have been appointed, the chairman of the meeting shall, appoint one or more inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors shall (i) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each, (ii) ascertain the existence of a quorum, (iii) ascertain the validity and effect of proxies, (iv) count and tabulate all votes, ballots or consents, (v) determine and retain for a reasonable period a record of the disposition of all challenges made to any determination made by the inspectors, (vi) certify the determination of the number of shares represented at the meeting and their count of all votes and ballots, (vii) do such other acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the chairman of the meeting, the inspectors shall make a report in writing of any challenge, request or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as an inspector of an election of directors. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. In determining the validity and counting of all proxies and ballots, the inspectors shall act in accordance with applicable law. (Del. Code Ann., tit. 8, §231).

SECTION 8. CONDUCT OF MEETINGS. The Chairman of the Board shall preside at all stockholders’ meetings. In the absence of the Chairman of the Board, the Chief Executive Officer shall preside or, in his or her absence, any officer designated by the Board shall preside. The Secretary, or, in the Secretary’s absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretaries, a person appointed by the chairman of the meeting shall serve as secretary of the meeting. In the event that the Secretary presides at a meeting of the stockholders, an Assistant Secretary shall record the minutes of the meeting. To the maximum extent permitted by law, the Board of the Corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and take such action as, in the discretion of such chairman, are deemed necessary, appropriate or convenient for the proper conduct of the meeting. Such rules, regulations and procedures, whether
adopted by the Board or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) establishing an agenda for the meeting and the order for the consideration of the items of business on such agenda; (ii) restricting admission to the time set for the commencement of the meeting; (iii) limiting attendance at the meeting to stockholders of record of the Corporation entitled to vote at the meeting, their duly authorized proxies or other such persons as the chairman of the meeting may determine; (iv) limiting participation at the meeting on any matter to stockholders of record of the Corporation entitled to vote on such matter, their duly authorized proxies or other such persons as the chairman of the meeting may determine to recognize and, as a condition to recognizing any such participant, requiring such participant to provide the chairman of the meeting with evidence of his or her name and affiliation, whether he or she is a stockholder or a proxy for a stockholder, and the class and series and number of shares of each class and series of capital stock of the Corporation which are owned beneficially and/or of record by such stockholder; (v) limiting the time allotted to questions or comments by participants; (vi) determining when the polls should be opened and closed for voting; (vii) taking such actions as are necessary or appropriate to maintain order, decorum, safety and security at the meeting; (viii) removing any stockholder who refuses to comply with meeting procedures, rules or guidelines as established by the chairman of the meeting; (ix) adjourning the meeting to a later date, time and place announced at the meeting by the chairman; and (x) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

SECTION 9. LISTS OF STOCKHOLDERS. The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, showing the address of each stockholder and the number and class of shares registered in the name of each stockholder. Nothing contained in this Section 9 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least ten (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. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a physical location, 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 communications, then the list shall 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. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by this Section 9 or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders. (Del Code Ann., tit. 8, §219).

SECTION 10. ACTION WITHOUT A MEETING. Unless otherwise provided by the Certificate, any action required by applicable law to be taken at any annual or special meeting of stockholders, or any action which may be taken at such meetings, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be 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 were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing. (Del. Code Ann., tit. 8, § 228).

SECTION 11. ADJOURNMENT. At any meeting of the stockholders of the Corporation, whether annual or special, the chairman of the meeting or the holders of a majority of the votes entitled to be cast by the stockholders who are present in person or represented by proxy may adjourn the meeting from time to time, without notice other than announcement at the meeting, whether or not a quorum is present. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting as originally called. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. (Del Code Ann., tit. 8, §222(c)).
SECTION 12. NOTICE OF STOCKHOLDER PROPOSALS.

(a) At any annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before such meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the meeting by or at the direction of the Board, or (iii) otherwise properly and timely brought before the meeting by any stockholder of the Corporation in compliance with the notice procedures and other provisions of this Section 12.

(b) For business to be properly brought before an annual meeting by a stockholder, such business must be a proper subject for stockholder action under the DGCL and other applicable law, as determined by the Chairman of the Board or such other person as is presiding over the meeting, and such stockholder (i) must be a stockholder of record on the date of the giving of the notice provided for in this Section 12 and on the record date for the determination of stockholders entitled to vote at such annual meeting, (ii) must be entitled to vote at such annual meeting, and (iii) must comply with the notice procedures set forth in this Section 12. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary.

(c) To be timely, a stockholder’s notice must be delivered to, or mailed and received by, the Secretary of the Corporation (the “Secretary”) at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) calendar day, and not later than the close of business on the ninetieth (90th) calendar day, prior to the first anniversary of the immediately preceding year’s annual meeting of stockholders; provided, however, that in the event that no annual meeting was held in the previous year or the annual meeting is called for a date that is more than thirty (30) calendar days earlier or more than sixty (60) calendar days later than such anniversary date, notice by the stockholder in order to be timely must be so delivered or received not earlier than the close of business on the one hundred twentieth (120th) calendar day prior to the date of such annual meeting and not later than the close of business on the later of the ninetieth (90th) calendar day prior to the date of such annual meeting or, if the first public disclosure of the date of such annual meeting is less than one hundred (100) calendar days prior to the date of such annual meeting, the tenth (10th) calendar day following the day on which public disclosure of the date of such annual meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting or the public disclosure thereof commence a new time period (or extend any time period) for the giving of a stockholder’s notice as described above.

(d) To be in proper written form, a stockholder’s notice to the Secretary shall set forth in writing, as to each matter the stockholder proposes to bring before the meeting, the following: (i) a description of the business desired to be brought before the meeting, including the text of the proposal or business and the text of any resolutions proposed for consideration; (ii) the name and record address, as they appear on the Corporation’s stock ledger, of such stockholder and the name and address of any Stockholder Associated Person; (iii) (A) the class and series and number of shares of each class and series of capital stock of the Corporation which are, directly or indirectly, owned beneficially and/or of record by such stockholder or any Stockholder Associated Person, documentary evidence of such record or beneficial ownership, and the date or dates such shares were acquired and the investment intent at the time such shares were acquired, (B) any Derivative Instrument directly or indirectly owned beneficially by such stockholder or any Stockholder Associated Person and any other direct or indirect right held by such stockholder or any Stockholder Associated Person to profit from, or share in any profit derived from, any increase or decrease in the value of shares of the Corporation, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder or any Stockholder Associated Person has a right to vote any securities of the Corporation, (D) any Short Interest indirectly or directly held by such stockholder or any Stockholder Associated Person in any security issued by the Corporation, (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder or any Stockholder Associated Person that are separated or separable from the underlying securities of the Corporation, (F) any proportionate interest in securities of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder or any Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, and (G) any performance-related fees (other than an asset-based fee) that such stockholder or any Stockholder Associated Person is entitled to based on any increase or decrease in the value of securities of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder’s or any Stockholder Associated Person’s immediate family sharing
the same household (which information, in each case, shall be supplemented by such stockholder and any Stockholder Associated Person not later than ten (10) calendar days after the record date for the meeting to disclose such ownership as of the record date); (iv) a description of all arrangements or understandings between such stockholder and/or any Stockholder Associated Person and any other person or persons (naming such person or persons) in connection with the proposal of such business by such stockholder; (v) any material interest of such stockholder or any Stockholder Associated Person in such business, individually or in the aggregate, including any anticipated benefit to such stockholder or any Stockholder Associated Person therefrom; (vi) a representation from such stockholder as to whether the stockholder or any Stockholder Associated Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation’s outstanding capital stock required to approve or adopt the proposal and/or (2) otherwise to solicit proxies from stockholders in support of such proposal; (vii) a representation that such stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting, that such stockholder intends to vote such stock at such meeting, and that such stockholder intends to appear at the meeting in person or by proxy to bring such business before such meeting; (viii) whether and the extent to which any agreement, arrangement or understanding has been made, the effect or intent of which is to increase or decrease the voting power of such stockholder or any Stockholder Associated Person with respect to any securities of the Corporation, without regard to whether such transaction is required to be reported on a Schedule 13D or other form in accordance with Section 13(d) of the Exchange Act or any successor provisions thereto and the rules and regulations promulgated thereunder; (ix) in the event that such business includes a proposal to amend these Bylaws, the complete text of the proposed amendment; and (x) such other information regarding each matter of business to be proposed by such stockholder, regarding the stockholder in his or her capacity as a proponent of a stockholder proposal, or regarding any Stockholder Associated Person, that would be required to be disclosed in a proxy statement or other filings required to be made with the SEC in connection with the solicitations of proxies for such business pursuant to Section 14 of the Exchange Act (or pursuant to any law or statute replacing such section) and the rules and regulations promulgated thereunder.

(e) If the information submitted pursuant to this Section 12 by any stockholder proposing business for consideration at an annual meeting shall be inaccurate to any material extent, such information may be deemed not to have been provided in accordance with this Section 12. Upon written request by the Secretary, the Board or any committee thereof, any stockholder proposing business for consideration at an annual meeting shall provide, within seven (7) business days of delivery of such request (or such other period as may be specified in such request), written verification, satisfactory in the discretion of the Board, any committee thereof or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 12. If a stockholder fails to provide such written verification within such period, the information as to which written verification was requested may be deemed not to have been provided in accordance with this Section 12.

(f) For purposes of these Bylaws, “public disclosure” shall be deemed to include a disclosure made in a (A) press release reported by the Dow Jones News Service, Reuters Information Service, Associated Press or any comparable or successor national news wire service, or (B) in a document filed by the Corporation with the SEC pursuant to Section 13, 14 or 15(d) of the Exchange Act or any successor provisions thereto.

(g) No business (other than nominations of persons for election to the Board which shall be made in accordance with the procedures set forth in Section 17 of these Bylaws) shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 12.

(h) Except as otherwise required by the DGCL and other applicable law, the Certificate or these Bylaws, the Chairman of the Board or other person presiding at an annual meeting shall have the power and duty (i) to determine whether any business proposed to be brought before the annual meeting was properly brought before the meeting in accordance with the procedures set forth in this Section 12, including whether the stockholder or any Stockholder Associated Person on whose behalf the proposal is made, solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder’s proposal in compliance with such stockholder’s representation as required by this Section 12, and (ii) if any proposed business was not brought in compliance with this Section 12, to declare that such proposal is defective and shall be disregarded.

(i) In addition to the provisions of this Section 12, a stockholder shall also comply with all applicable requirements of the DGCL, other applicable law and the Exchange Act, and the rules and regulations thereunder,
with respect to the matters set forth herein, provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to stockholder proposals to be considered pursuant to Section 12(a)(iii) of these Bylaws.

(j) Nothing in this Section 12 shall be deemed to affect any rights (i) of stockholders to request the inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act, or (ii) of the holders of any series of preferred stock to elect directors pursuant to any applicable provision of the Certificate.

(k) Notwithstanding anything in this Section 12 to the contrary, a stockholder intending to nominate one or more persons for election as a director at any meeting of stockholders must comply with Section 17 of these Bylaws for any such nomination to be properly brought before such meeting.

ARTICLE III
BOARD OF DIRECTORS

SECTION 13. POWERS. The property, business and affairs of the Corporation shall be managed by, or under the direction of, the Board. The Board may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute, regulation, the Certificate or these Bylaws directed or required to be exercised or done by the stockholders. (Del Code Ann., tit. 8, § 141(a)).

SECTION 14. NUMBER. The authorized number of directors shall be no less than one nor more than nine. Within the foregoing limits, the number of directors shall be fixed from time to time by resolution adopted by the Board. (Del Code Ann., tit. 8, §§ 141(b)).

SECTION 15. TERM. The Board shall be elected by the stockholders at their annual meeting, and each director shall be elected to serve for the term of one year and until his successor shall be elected and qualify or until his earlier death, resignation or removal. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director. (Del Code Ann., tit. 8, §§ 211(b), (c)).

SECTION 16. QUALIFICATIONS.

(a) Each director shall be at least 21 years of age. Directors need not be stockholders of the Corporation. (Del Code Ann., tit. 8, § 141(b)).

(b) Each director and nominee for election as a director of the Corporation must deliver to the Secretary at the principal office of the Corporation a written questionnaire with respect to the background and qualifications of such person (which questionnaire shall be provided by the Secretary upon written request and approved from time to time by the Board or its Nominating and Corporate Governance Committee) and a written representation and agreement (in the form provided by the Secretary upon written request) (the “Prospective Director Agreement”). The Prospective Director Agreement (i) shall provide that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if such person is at the time a director or is subsequently elected as a director of the Corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Corporation, or (2) any Voting Commitment that could limit or interfere with such person’s ability to comply, if such person is at the time a director or is subsequently elected as a director of the Corporation, with such person’s duties as a director under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, and (C) would be in compliance, if elected as a director of the Corporation, and will, if such person is at the time a director or is subsequently elected as a director of the Corporation, comply with all applicable corporate governance, conflicts of interest, confidentiality, corporate opportunities, securities ownership and stock trading policies, and other policies and guidelines of the Corporation (copies of which shall be provided by the Secretary upon written request), and (ii) shall include, if such person is at the time a director or is subsequently elected as a director of the Corporation, such person’s irrevocable resignation as a director if such person is found by
SECTION 17. NOTICE OF NOMINATIONS FOR DIRECTORS.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board at an annual meeting of stockholders may be made (A) by or at the direction of the Board or a committee appointed by the Board, or (B) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 17(a), on the record date for the determination of the stockholders entitled to vote at such annual meeting of stockholders and at the time of such annual meeting of stockholders, (ii) who is entitled to vote at the annual meeting of stockholders, and (iii) who complies with the notice procedures set forth in this Section 17(a) as to such nominations, including, but not limited to, the procedures regarding such notice’s timeliness and required form.

(2) For a stockholder’s notice of nomination of persons for election to the Board at an annual meeting of stockholders to be brought before an annual meeting by a stockholder pursuant to Section 17(a)(1)(B) of these Bylaws, the stockholder must have given timely notice thereof, in proper written form, to the Secretary. To be considered timely, a stockholder’s notice of nomination must be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) calendar day, and not later than the close of business on the ninetyith (90th) calendar day, prior to the first anniversary of the immediately preceding year’s annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or the annual meeting is called for a date that is more than thirty (30) calendar days earlier or more than sixty (60) calendar days later than such anniversary date, notice by the stockholder in order to be timely must be so delivered or received not earlier than the close of business on the one hundred twentieth (120th) calendar day prior to the date of such annual meeting and not later than the close of business on the later of the ninetieth (90th) calendar day prior to the date of such annual meeting or, if the first public disclosure of the date of such annual meeting is less than one hundred (100) calendar days prior to the date of such annual meeting, the tenth (10th) calendar day following the day on which public disclosure of the date of such annual meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting or the public disclosure thereof commence a new time period (or extend any time period) for the giving of a stockholder’s notice as described above.

To be in proper written form, a stockholder’s notice of nomination to the Secretary (whether given pursuant to this Section 17(a) or Section 17(b) of these Bylaws) shall set forth in writing the following: (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director (i) the name, age, business address and residence address of such person; (ii) the principal occupation and employment of such person; (iii) the class and series and number of shares of each class and series of capital stock of the Corporation which are owned beneficially or of record by such person (which information shall be supplemented not later than ten (10) calendar days after the record date for the meeting to disclose such ownership as of the record date); (iv) such person’s executed written consent to being named in the proxy statement as a nominee and to serving as a director if elected; (v) all information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made with the SEC in connection with the solicitation of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act (or pursuant to any law or statute replacing such section), and the rules and regulations promulgated thereunder; (vi) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such person being nominated, on the one hand, and the stockholder and any Stockholder Associated Person, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K of the Exchange Act if the stockholder making the nomination and any Stockholder Associated Person were the “registrant” for purposes of such rule and the person being nominated were a director or executive officer of such registrant; and (vii) the information and agreement required under Section 16 of these Bylaws; and (b) as to the stockholder giving the notice (i) the name and record address of such stockholder, as they appear on the Corporation’s stock ledger, and the name and address of any Stockholder Associated Person; (ii) (A) the class and series and number of shares of each class and series of capital stock of the Corporation which are, directly or indirectly, owned beneficially and/or of record by such stockholder or any Stockholder Associated Person,
directors shall be are to be elected (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board, or (iii) provided that the Board has determined that the Corporation or any Stockholder Associated Person has a right to vote any shares of any security of the Corporation, (D) any Short Interest indirectly or directly held by such stockholder or any Stockholder Associated Person in any security issued by the Corporation, (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder or any Stockholder Associated Person that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder or any Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, and (G) any performance-related fees (other than an asset-based fee) that such stockholder or any Stockholder Associated Person is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder’s or any Stockholder Associated Person’s immediate family sharing the same household (which information shall, in each case, be supplemented by such stockholder and any Stockholder Associated Person not later than ten (10) calendar days after the record date for the meeting to disclose such ownership as of the record date); (iii) a description of all arrangements or understandings between such stockholder or any Stockholder Associated Person and each proposed nominee and any other person or persons (naming such person or persons) pursuant to which the nomination(s) are to be made by such stockholder; (iv) any material interest of such stockholder or any Stockholder Associated Person in the election of such proposed nominee, individually or in the aggregate, including any anticipated benefit to the stockholder or any Stockholder Associated Person therefrom; (v) a representation that such stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and that such stockholder intends to appear in person or by proxy at the meeting to nominate the person or persons named in its notice; (vi) a representation from the stockholder as to whether the stockholder or any Stockholder Associated Person intends or is part of a group which intends (A) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation’s outstanding capital stock required to elect the person proposed as a nominee and/or (B) otherwise to solicit proxies from stockholders in support of the election of such person; (vii) whether and the extent to which any agreement, arrangement or understanding has been made, the effect or intent of which is to increase or decrease the voting power of such stockholder or such Stockholder Associated Person with respect to any shares of the capital stock of the Corporation, without regard to whether such transaction is required to be reported on a Schedule 13D or other form in accordance with Section 13(d) of the Exchange Act or any successor provisions thereto and the rules and regulations promulgated thereunder; and (viii) any other information relating to such stockholder and any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made with the SEC in connection with solicitations of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act (or pursuant to any law or statute replacing such section) and the rules and regulations promulgated thereunder. In addition to the information required above, the Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder’s understanding of the independence, or lack thereof, of such nominee.

(3) Notwithstanding anything in this Section 17 to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting of the stockholders is increased and there is no public disclosure by the Corporation, naming all of the nominees for directors or specifying the size of the increased Board, at least ninety (90) calendar days prior to the first anniversary of the date of the immediately preceding year’s annual meeting, a stockholder’s notice required by this Section 17 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) calendar day following the day on which such public disclosure is first made by the Corporation.

(b) Special Meetings of Stockholders. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected (i) pursuant to the Corporation’s notice of meeting, (ii) by or at the direction of the Board, or (iii) provided that the Board has determined that directors shall be
elected at such meeting, by any stockholder of the Corporation who (A) is a stockholder of record at the time of giving of notice provided for in this Section 17(b), (B) is a stockholder of record on the record date for the determination of the stockholders entitled to vote at such meeting, (C) is a stockholder of record at the time of such meeting, (D) is entitled to vote at such meeting, and (E) complies with the notice procedures set forth in this Section 17(b) as to such nomination. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholder may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation’s notice of meeting, if the proper form of stockholder’s notice required by Section 17(a)(2) of these Bylaws with respect to any nomination shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) calendar day prior to the date of such special meeting and not later than the close of business on the later of the ninetieth (90th) calendar day prior to the date of such special meeting or, if the first public disclosure made by the Corporation of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, not later than the tenth (10th) calendar day following the day on which public disclosure is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting or the public disclosure thereof commence a new time period (or extend any time period) for the giving of a stockholder’s notice as described above.

(c) General.

(1) If the information submitted pursuant to this Section 17 by any stockholder proposing a nominee for election as a director at a meeting of stockholders shall be inaccurate to any material extent, such information may be deemed not to have been provided in accordance with this Section 17. Upon written request by the Secretary, the Board or any committee thereof, any stockholder proposing a nominee for election as a director at a meeting shall provide, within seven (7) business days of delivery of such request (or such other period as may be specified in such request), written verification, satisfactory in the discretion of the Board, any committee thereof or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 17. If a stockholder fails to provide such written verification within such period, the information as to which written verification was requested may be deemed not to have been provided in accordance with this Section 17.

(2) Notwithstanding anything in these Bylaws to the contrary, no person shall be eligible for election as a director of the Corporation at any meeting of stockholders unless nominated in accordance with the procedures set forth in this Section 17.

(3) Notwithstanding anything in these Bylaws to the contrary, if a stockholder who has submitted a written notice of intention to propose a nominee for election as a director at a meeting of stockholders (or a designated representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present the nomination, such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(4) Except as otherwise required by the DGCL and other applicable law, the Certificate or these Bylaws, the Chairman of the Board or other person presiding at the meeting shall have the power and duty (a) to determine whether any nomination proposed to be brought before the meeting was properly made in accordance with the procedures set forth in this Section 17, including whether the stockholder or any Stockholder Associated Person on whose behalf the nomination is made, solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of the election of such stockholder’s nominee(s) in compliance with such stockholder’s representation as required by this Section 17, and (b) if any proposed nomination was not made in compliance with this Section 17, to declare that such nomination is defective and shall be disregarded.

(5) In addition to the provisions of this Section 17, a stockholder shall also comply with all applicable requirements of the DGCL, other applicable law and the Exchange Act, and the rules and regulations thereunder, with respect to the matters set forth herein, provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the applicable requirements for nominations by stockholders to be considered pursuant to Section 17(a) or Section 17(b) of these Bylaws.
(6) Nothing in this Section 17 shall be deemed to affect any rights of the holders of any series of Preferred Stock, if and to the extent provided for, under applicable law, the Certificate or these Bylaws.

SECTION 18. RESIGNATIONS. Any director may resign at any time by giving written notice thereof to the Board, the Chairman of the Board, the Chief Executive Officer or the Secretary. Such resignation shall take effect at the time specified therein or, if the time is not specified therein, upon receipt thereof; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. (Del Code Ann., tit. 8, § 141(b)).

SECTION 19. REMOVAL. Any director or the entire Board may be removed, either for or without cause, at any time, by the affirmative vote of the holders of a majority of the shares entitled to vote at an election of directors at any annual or special meeting of the stockholders called for that purpose. For purposes of this Section 19, “cause” shall mean (a) a final conviction of a felony involving moral turpitude, or (b) willful misconduct that is materially and demonstrably injurious economically to the Corporation. For purposes of this definition of “cause,” no act, or failure to act, by a director shall be considered “willful” unless committed in bad faith and without a reasonable belief that the act or failure to act was in the best interest of the Corporation or any affiliate of the Corporation. “Cause” shall not exist unless and until the Corporation has delivered to the director a written notice of the director’s failure to act that constitutes “cause” and, if cure is possible, such director shall not have cured such act or omission within ninety (90) days after the delivery of such notice. (Del Code Ann., tit. 8, § 141(k)).

SECTION 20. VACANCIES AND NEWLY CREATED DIRECTORSHIPS. Vacancies in the Board, whether resulting from death, resignation, disqualification, removal or other causes, and any newly created directorships resulting from any increase in the number of directors, shall, unless the Board determines by resolution that any such vacancy or newly created directorships shall be filled by the stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director’s successor shall have been elected and qualified, except in the event of his or her earlier death, resignation, disqualification or removal. (Del Code Ann., tit. 8, § 223).

SECTION 21. MEETINGS.

(a) Organizational Meetings. The newly elected directors shall hold their first meeting to organize the Corporation, elect officers and transact any other business which may properly come before the meeting. An annual organizational meeting of the Board shall be held immediately after each annual meeting of the stockholders, or at such time and place as may be noticed for the meeting.

(b) Regular Meetings. Regular meetings of the Board may be held without notice at such places and times as shall be determined from time to time by resolution of the directors. (Del Code Ann., tit. 8, § 141(g)).

(c) Special Meetings. Special meetings of the Board shall be called by the Chief Executive Officer or by the Secretary on the written request of any director with at least two days’ notice to each director and shall be held at such place as may be determined by the directors or as shall be stated in the notice of the meeting. (Del Code Ann., tit. 8, § 141(g)).

SECTION 22. QUORUM, VOTING AND ADJOURNMENT. A majority of the total number of directors or any committee thereof, but not less than one (1), shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless a different vote is required by applicable law, the Certificate or these Bylaws. In the absence of a quorum, a majority of the directors present thereat may adjourn such meeting to another time and place. Notice of such adjourned meeting need not be given if the time and place of such adjourned meeting are announced at the meeting so adjourned. (Del Code Ann., tit. 8, § 141(b)).

SECTION 23. COMMITTEES. The Board may, by resolution passed by a majority of the Board, designate one or more committees, including but not limited to an Executive Committee and an Audit Committee, each such committee to consist of one or more of the directors of the Corporation. The Board may designate one or more
directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board 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; but no such committee shall have the power or authority to amend the Certificate of Incorporation, adopt an agreement of merger or consolidation, recommend to the stockholders the sale, lease, or exchange of all or substantially all of the Corporation’s properties and assets, recommend to the stockholders a dissolution of the Corporation or a revocation of a dissolution or to amend these Bylaws. Unless a resolution of the Board expressly provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock of the Corporation. All committees of the Board shall report their proceedings to the Board when required. (Del Code Ann., tit. 8, § 141(c)).

SECTION 24. ACTION WITHOUT A MEETING. Unless otherwise restricted by the Certificate or these Bylaws, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or any committee thereof consent thereto in writing, or by electronic transmission, and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form (Del Code Ann., tit. 8, § 141(f)).

SECTION 25. COMPENSATION. Directors shall be entitled to such compensation for their services as may be approved by the Board, including, if so approved, by resolution of the Board, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board and at any meeting of a committee of the Board. Nothing herein contained shall be construed to preclude any Director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor. (Del Code Ann., tit. 8, § 141(h)).

SECTION 26. MEETING BY ELECTRONIC COMMUNICATIONS EQUIPMENT. Any member of the Board, or of any committee thereof, may participate in a meeting 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 in a meeting by such means shall constitute presence in person at such meeting. (Del. Code Ann., tit. 8, § 141(i)).

ARTICLE IV
OFFICERS

SECTION 27. OFFICERS. The officers of the Corporation shall be a Chairman of the Board, a Chief Executive Officer, a President, a Chief Operating Officer, a Chief Financial Officer, one or more Vice-Presidents, a Secretary, a Treasurer and such other officers and assistant officers as the Board may from time to time deem advisable. Except for the Chairman of the Board, Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer and Secretary, the Board may refrain from filling any of the said offices at any time and from time to time. Any number of offices may be held by the same person. The following officers shall be elected by the Board at the time, in the manner and for such terms as the Board from time to time shall determine: Chairman of the Board, Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer and Secretary. The Chief Executive Officer may appoint such other officers and assistant officers as he may deem advisable provided such officers or assistant officers have a title no higher than Vice-President, who shall hold office for such periods as the Chief Executive Officer shall determine. (Del. Code Ann., tit. 8, §§ 122(5), 142(a), (b)).

SECTION 28. CHAIRMAN OF THE BOARD. The Chairman of the Board shall be a member of the Board and shall preside at all meetings of the Board and of the stockholders. In addition, the Chairman of the Board shall have such powers and perform such other duties as from time to time may be assigned to him by the Board. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 29. CHIEF EXECUTIVE OFFICER. The Chief Executive Officer shall have general supervision of all of the departments and business of the Corporation; he or she shall prescribe the duties of the other officers and employees and see to the proper performance thereof. The Chief Executive Officer shall be responsible for
having all orders and resolutions of the Board carried into effect. The Chief Executive Officer shall execute on behalf of the Corporation and may affix or cause to be affixed a seal to all authorized documents and instruments requiring such execution, except to the extent that signing and execution thereof shall have been delegated to some other officer or agent of the Corporation by the Board or by the Chief Executive Officer. The Chief Executive Officer shall be a member of the Board. In the absence or disability of the Chairman of the Board or his or her refusal to act, the Chief Executive Officer shall preside at meetings of the Board. In general, the Chief Executive Officer shall perform all the duties and exercise all the powers and authorities incident to his or her office or as prescribed by the Board. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 30. PRESIDENT. The President shall perform such duties as customarily pertain to the office of President or are prescribed by the Board or Chief Executive Officer. In the absence, disability or refusal of the Chief Executive Officer to act, or the vacancy of such office, the President shall perform the duties and have the powers and authorities of the Chief Executive Officer. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 31. CHIEF OPERATING OFFICER. The Chief Operating Officer shall perform such duties as customarily pertain to the office of Chief Operating Officer or are prescribed by the Board, Chief Executive Officer or President. In the absence, disability or refusal of the President to act, or the vacancy of such office, the Chief Operating Officer shall perform the duties and have the powers and authorities of the President. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 32. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall be the principal financial and accounting officer of the Corporation and shall have such other duties as may be prescribed by the Board, Chief Executive Officer or President. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 33. VICE PRESIDENTS. Each Vice President, if any are elected, of whom one or more may be designated an Executive and/or Senior Vice President, shall have such powers, shall perform such duties and shall be subject to such supervision as may be prescribed by the Board, the Chief Executive Officer, the President or the Chief Operating Officer. In the event of the absence or disability of the Chief Executive Officer or the President or their refusal to act, the Vice-Presidents, in the order of their rank, and within the same rank in the order of their seniority, shall perform the duties and have the powers and authorities of the Chief Executive Officer and President, except to the extent inconsistent with applicable law. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 34. TREASURER. The Treasurer, if one is elected, shall have custody of the corporate funds, securities, evidences of indebtedness and other valuables of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation. He shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Corporation, taking proper vouchers therefor. He shall render to the Chief Executive Officer and the Board, upon their request, a report of the financial condition of the Corporation. If required by the Board, he shall give the Corporation a bond for the faithful discharge of his duties in such amount and with such surety as the Board shall prescribe. The Treasurer shall have such further powers and perform such other duties as prescribed by the Board, if any are assigned to him by the Board. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 35. SECRETARY. The Secretary shall be the Chief Administrative Officer of the Corporation and shall: (a) cause minutes of all meetings of the stockholders and directors to be recorded and kept; (b) cause all notices required by these Bylaws or otherwise to be given properly; (c) see that the minute books, stock books, and other nonfinancial books, records and papers of the Corporation are kept properly; and (d) cause all reports, statements, returns, certificates and other documents to be prepared and filed when and as required. The Secretary shall keep a seal of the Corporation, and, when authorized by the Board, Chief Executive Officer or the President, cause the seal to be affixed to any documents and instruments requiring it. The Secretary shall act under the supervision of the Chief Executive Officer and President or such other officer as the Chief Executive Officer or President may designate. The Secretary shall have such further powers and perform such other duties as prescribed by the Board, Chief Executive Officer, President or such other supervising officer as the Chief Executive Officer or President may designate. (Del. Code Ann., tit. 8, § 142(a)).
SECTION 36. ASSISTANT TREASURERS AND ASSISTANT SECRETARIES. Each Assistant Treasurer and each Assistant Secretary, if any are elected, shall be vested with all the powers and shall perform all the duties of the Treasurer and Secretary, respectively, in the absence or disability of such officer, unless or until the Board shall otherwise determine. In addition, Assistant Treasurers and Assistant Secretaries shall have such powers and shall perform such duties as shall be assigned to them by the Board. (Del. Code Ann., tit. 8, § 142(a)).

SECTION 37. DELEGATION OF DUTIES. In the absence, disability or refusal of any officer to exercise and perform his duties, the Board may delegate to another officer such powers or duties.

SECTION 38. RESIGNATION. Any officer may resign at any time by giving notice in writing or by electronic transmission to the Board or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract with the resigning officer. (Del. Code Ann., tit. 8, § 142(b)).

SECTION 39. REMOVAL. Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or, with respect to any officer other than the Chairman of the Board (if the Chairman of the Board is designated as an officer of the corporation by the Board), by the Chief Executive Officer or by other superior officers upon whom such power of removal may have been conferred by the Board.

SECTION 40. VACANCIES. The Board shall have power to fill vacancies occurring in any office.

ARTICLE V

STOCK

SECTION 41. CERTIFICATES OF STOCK. The shares of the Corporation shall be represented by certificates or shall be uncertificated. Every holder of stock of the Corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by applicable law and by the Board, representing the number of shares held by such holder registered in certificate form, and signed by, or in the name of the Corporation by, the Chairman of the Board, the Chief Executive Officer or the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary, certifying the number and class of shares of stock in the Corporation owned by him. Any or all of the signatures on the certificate may be a facsimile. The Board shall have the power to appoint one or more transfer agents and/or registrars for the transfer or registration of certificates of stock of any class, and may require stock certificates to be countersigned or registered by one or more of such transfer agents and/or registrars. (Del. Code Ann., tit. 8, § 158).

SECTION 42. TRANSFER OF SHARES.

(a) Shares of stock of the Corporation shall be transferable upon its books by the holders thereof, in person or by their duly authorized attorneys or legal representatives, upon surrender to the Corporation by delivery thereof to the person in charge of the stock and transfer books and ledgers. Such certificates shall be cancelled and new certificates shall thereupon be issued. A record shall be made of each transfer. Whenever any transfer of shares shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer if, when the certificates are presented, both the transferor and transferee request the Corporation to do so. (Del. Code Ann., tit. 8, § 201).

(b) The Board shall have power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of certificates for shares of stock of the Corporation. (Del. Code Ann., tit. 8, § 202).
SECTION 43. LOST CERTIFICATES. A new certificate of stock may be issued in the place of any certificate previously issued by the Corporation, alleged to have been lost, stolen, destroyed or mutilated, and the Board may, in their discretion, require the owner of such lost, stolen, destroyed or mutilated certificate, or his legal representative, to give the Corporation a bond, in such sum as the Board may direct, not exceeding double the value of the stock, in order to indemnify the Corporation against any claims that may be made against it in connection therewith. (Del. Code Ann., tit. 8, § 167).

SECTION 44. STOCKHOLDERS OF RECORD. The Corporation shall be entitled to treat the holder of record of any share or shares of its capital stock as the holder thereof, in fact, and shall not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the DGCL or other applicable law. (Del. Code Ann., tit. 8, § 219 (c)).

SECTION 45. RECORD DATE.

(a) Record Date for Meetings of Stockholders. For the purpose of determining the stockholders entitled to notice of, or to vote at, any meeting of stockholders or any adjournment thereof, the directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting. 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 next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting. (Del. Code Ann., tit. 8, § 213(a)).

(b) Record Date for Payments of Dividends and Distributions. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion, or exchange of stock or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto. (Del. Code Ann., tit. 8, § 213(c)).

(c) Record Date for Corporate Actions by Written Consent.

(i) Notwithstanding Section 45(a) and Section 45(b) of these Bylaws, the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting shall be as fixed by the Board or as otherwise established under this Section 45(c). Any person seeking to have the stockholders authorize or take corporate action by written consent without a meeting shall, by written notice addressed to the Secretary and delivered to the Corporation, request that a record date be fixed for such purpose. The Board may fix a record date for such purpose which shall be no more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board and shall not precede the date on which such resolution is adopted. If the Board fails within ten (10) days after the Corporation receives such notice to fix a record date for such purpose, the record date shall be the day on which the first written consent is delivered to the Corporation in the manner described in Section 45(c)(ii) below unless prior action by the Board is required under the DGCL, in which event the record date shall be at the close of business on the day on which the Board adopts the resolution taking such prior action. (Del. Code Ann., tit. 8, § 213(b)).

(ii) (A) Every written consent purporting to take or authorizing the taking of corporate action and/or related revocations (each such written consent and related revocation is referred to in this Section 45(c)(ii) of these Bylaws as a “Consent”) shall bear the date of signature of each stockholder who signs the Consent, and no Consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated Consent delivered in the manner required by this Section 45(c)(ii), Consents signed by a sufficient number of stockholders to take such action are so delivered to the Corporation. (Del. Code Ann., tit. 8, § 228).
A Consent 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 to the Corporation’s registered office shall be made by hand or by certified or registered mail, return receipt requested. (Del. Code Ann., tit. 8, § 228).

In the event of the delivery to the Corporation of a Consent, the Secretary shall provide for the safe-keeping of such Consent and shall promptly conduct such ministerial review of the sufficiency of the Consents and of the validity of the action to be taken by stockholder consent as he deems necessary or appropriate, including, without limitation, whether the holders of a number of shares having the requisite voting power to authorize or take the action specified in the Consent have given consent; provided, however, that if the corporate action to which the Consent relates is the removal or replacement of one or more members of the Board, the Secretary shall promptly designate two persons, who shall not be members of the Board, to serve as inspectors with respect to such Consent and such inspectors shall discharge the functions of the Secretary under this Section 45(c)(ii). If after such investigation the Secretary or the inspectors (as the case may be) shall determine that the Consent is valid and that the action therein specified has been validly authorized, that fact shall forthwith be certified on the records of the Corporation kept for the purpose of recording the proceedings of meetings of stockholders, and the Consent shall be filed in such records, at which time the Consent shall become effective as stockholder action. In conducting the investigation required by this Section 45(c)(ii), the Secretary or the inspectors (as the case may be) may, at the expense of the Corporation, retain special legal counsel and any other necessary or appropriate professional advisors, and such other personnel as they may deem necessary or appropriate to assist them, and shall be fully protected in relying in good faith upon the opinion of such counsel or advisors. (Del. Code Ann., tit. 8, § 228).

SECTION 46. DIVIDENDS. Subject to the provisions of the Certificate, the Board may at any regular or social meeting, out of funds legally available therefor, declare dividends upon the stock of the Corporation. Before the declaration of any dividend, the Board may set apart, out of any funds of the Corporation available for dividends, such sum or sums as from time to time in their discretion may be deemed proper for working capital or as a reserve fund to meet contingencies or for such other purposes as shall be deemed conducive to the interests of the Corporation. (Del. Code Ann., tit. 8, §§ 170(a), 173).

SECTION 47. FRACTIONAL SHARES. The Company shall have the complete discretion to issue fractional shares. (Del. Code Ann., tit. 8, § 155).

ARTICLE VI

NOTICE AND WAIVER OF NOTICE

SECTION 48. NOTICE. Whenever any written notice is required to be given by law, the Certificate or these Bylaws, such notice, if mailed, shall be deemed to be given when deposited in the United States mail, postage prepaid, addressed to the person entitled to such notice at his address as it appears in the books and records of the Corporation. Such notice may also be sent by electronic transmission.

SECTION 49. WAIVER OF NOTICE. Whenever notice is required to be given under any provision of the DGCL, the Certificate or 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 or after the time stated therein, 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. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate or these Bylaws. (Del. Code Ann., tit. 8, § 229).
ARTICLE VII

AMENDMENT OF BYLAWS

SECTION 50. AMENDMENT OR REPEAL BY THE BOARD. Except as otherwise provided by the DGCL or the Certificate, these Bylaws may be amended or repealed, in whole or in part, by the affirmative vote of not less than a majority of the Board at any regular or special meeting of the Board provided that notice of such proposed amendment or repeal to be made is included in the notice of the meeting at which such action takes place, which shall also include, without limitation, the text of any such proposed amendment and/or any resolution calling for any such amendment or repeal. (Del. Code Ann., tit. 8, § 109(a)).

SECTION 51. AMENDMENT OR REPEAL BY STOCKHOLDERS. Except as otherwise provided by the DGCL or the Certificate and except for the proviso hereto, any amendment to, repeal of, or adoption of any provisions inconsistent with these Bylaws, which has not previously received the approval of the Board, shall require for adoption the affirmative vote of the holders of a majority of the issued and outstanding shares present in person or represented by proxy at a meeting of stockholders and entitled to vote thereat, provided, however, that, notwithstanding anything to the contrary contained herein, any amendment to, repeal of, or adoption of any provisions inconsistent with, Sections 2, 3, 6, 12, 14, 15, 16, 17, 19, 20 and 45 of these Bylaws, this Section 51 and Article IX hereof, which has not previously received the approval of the Board shall require for adoption the affirmative vote of the holders of not less than two-thirds of the issued and outstanding shares entitled to vote at a duly called and convened annual or special meeting of stockholders, and provided, further, that, in addition to any other notice required by these Bylaws and other applicable requirements contained herein, notice of such proposed amendment or repeal is included in the notice of the meeting at which such action takes place, which shall also include, without limitation, the text of any such proposed amendment and/or any resolution calling for any such amendment or repeal. (Del. Code Ann., tit. 8, § 109(a)).

SECTION 52. NO CONFLICT WITH THE CERTIFICATE OF INCORPORATION. No Bylaw shall be adopted, amended or repealed so as to cause such Bylaw or these Bylaws to be inconsistent or in conflict with or violate any provision of the Certificate. (Del. Code Ann., tit. 8, § 109(b)).

ARTICLE VIII

MISCELLANEOUS

SECTION 53. SEAL. The seal of the Corporation shall be circular in form and shall have the name of the Corporation on the circumference and the jurisdiction and year of incorporation in the center. (Del. Code Ann., tit. 8, § 122(3)).

SECTION 54. FISCAL YEAR. The fiscal year of the Corporation shall end on December 31 of each year, or such other twelve consecutive months as the Board may designate.

SECTION 55. CORPORATE FUNDS AND CHECKS. The funds of the Corporation shall be kept in such depositories as shall from time to time be prescribed by the Board. All checks or other orders for the payment of money shall be signed by the Chief Executive Officer, President or Chief Financial Officer or such other person or agent as may from time to time be authorized and with such countersignature, if any, as may be required by the Board.

SECTION 56. CONTRACTS AND OTHER DOCUMENTS. The Chief Executive Officer or President, or such other officer or officers as may from time to time be authorized by the Board, shall have power to sign and execute on behalf of the Corporation deeds, conveyances and contracts, and any and all other documents requiring execution by the Corporation. (Del. Code Ann., tit. 8, §§ 103(a), 142(a), 158).

SECTION 57. OWNERSHIP OF STOCK OF ANOTHER CORPORATION. The Chief Executive Officer or President, or such other officer or agent as shall be authorized by the Board, shall have the power and authority, on behalf of the Corporation, to attend and to vote at any meeting of stockholders of any corporation in which the Corporation holds stock and may exercise, on behalf of the Corporation, any and all of the rights and powers...
incident to the ownership of such stock at any such meeting, including the authority to execute and deliver proxies and consents on behalf of the Corporation. (Del. Code Ann., tit. 8, § 123).

SECTION 58. SEVERABILITY. If any provision of these Bylaws is illegal or unenforceable as such, such illegality or unenforceability shall not affect any other provision of these Bylaws and such other provisions shall continue in full force and effect.

SECTION 59. SUBJECT TO LAW AND THE CERTIFICATE OF INCORPORATION. All rights, powers, duties and responsibilities provided for in these Bylaws, whether or not explicitly so qualified, are qualified by the provisions of the Certificate, the DGCL and any other applicable law. (Del. Code Ann., tit. 8, § 109(b)).

SECTION 60. EMERGENCY BYLAWS. The provisions of this Section 60 shall be operative only during a national emergency declared by the President of the United States or the person performing the President’s functions, or in the event of a nuclear, atomic or other attack on the United States or a disaster or catastrophe making it impossible or impracticable for the Corporation to conduct its business without recourse to the provisions of this Section 60. Said provisions in such event shall override all other Bylaws or the Corporation in conflict with any provisions of this Section 60, and shall remain operative so long as it remains impossible or impracticable to continue the business of the Corporation otherwise, but thereafter shall be inoperative; provided, however, that all actions taken in good faith pursuant to such provisions shall thereafter remain in full force and effect unless and until revoked by action taken pursuant to the provisions of the Bylaws other than those contained in this Section 60 (Del. Code Ann., tit. 8, § 110).

(a) A meeting of the Board or of any committee thereof may be called by any officer or director upon one hour’s notice to all persons entitled to notice whom, in the sole judgment of the notifier, it is feasible to notify;

(b) The director or directors in attendance at the meeting of the Board or of any committee thereof shall constitute a quorum; and

(c) These Bylaws may be amended or repealed, in whole or in part, by a majority vote of the directors attending any meeting of the Board, provided such amendment or repeal shall only be effective for the duration of such emergency.

ARTICLE IX

INDEMNIFICATION

SECTION 61. RIGHT TO INDEMNIFICATION. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “proceeding”) by reason of the fact that he, or a person for whom he is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys’ fees) reasonably incurred by such person; provided, however, that the Corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person or any proceeding by such person against the Corporation or its directors, officers, employees or other agents unless (i) such indemnification is expressly required to be made by applicable law, (ii) the proceeding was authorized by the Board, (iii) such indemnification is provided by the Corporation, in its sole discretion, or (iv) such indemnification is required to be made under Section 63, pursuant to the powers vested in the Corporation under the DGCL or any other applicable law. (Del. Code Ann., tit. 8, § 145).

SECTION 62. ADVANCEMENT OF EXPENSES.

(a) The Corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or executive officer, of the Corporation, or is or was
serving at the request of the Corporation as a director or executive officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding, provided, however, that if the DGCL requires, an advancement of expenses incurred by a director or executive officer in his or her capacity as a director or executive officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, an “undertaking”), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a “final adjudication”) that such indemnitee is not entitled to be indemnified for such expenses under this Section 62 or otherwise. (Del. Code Ann., tit. 8, § 145(e)).

(b) Notwithstanding the foregoing, unless otherwise determined pursuant to Section 63, no advance shall be made by the Corporation to an executive officer of the Corporation (except by reason of the fact that such executive officer is or was a director of the Corporation in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation. (Del. Code Ann., tit. 8, § 145(e)).

SECTION 63. ENFORCEMENT. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Article IX shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the Corporation and the director or executive officer. Any right to indemnification or advances granted by this Article IX to a director or executive officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within sixty (60) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim by an executive officer of the Corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the Corporation) for advances, the Corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the Corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the Corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation. (Del. Code Ann., tit. 8, § 145(e)).

SECTION 64. GOOD FAITH.

(a) For purposes of any determination under this Article IX, a director or executive officer shall be deemed to have 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, with respect to any criminal action or proceeding, to have had no reasonable cause to believe that his conduct was unlawful, if his action is based on information, opinions, reports and statements, including financial statements and other financial data, in each case prepared or presented by:
(i) one or more officers or employees of the Corporation whom the director or executive officer believed to be reliable and competent in the matters presented;

(ii) counsel, independent accountants or other persons as to matters which the director or executive officer believed to be within such person’s professional competence; and

(iii) with respect to a Director, a committee of the Board upon which such director does not serve, as to matters within such Committee’s designated authority, which committee the director believes to merit confidence; so long as, in each case, the director or executive officer acts without knowledge that would cause such reliance to be unwarranted.

(b) The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal proceeding, that he had reasonable cause to believe that his conduct was unlawful.

(c) The provisions of this Article IX shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth by the DGCL.

SECTION 65. NON-EXCLUSIVITY OF RIGHTS. The rights conferred on any person by this Article IX shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate, these Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL, or by any other applicable law. (Del. Code Ann., tit. 8, § 145(f)).

SECTION 66. OTHER INDEMNIFICATION. The Corporation’s obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise or nonprofit enterprise.

SECTION 67. INSURANCE. The Board may authorize, by a vote of a majority of a quorum of the Board, the Corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, member, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article IX or of the DGCL; and the Corporation may create a trust fund, grant a security interest and/or use other means (including, without limitation, letters of credit, surety bonds and/or other similar arrangements) to the full extent authorized or permitted by the DGCL and other applicable law to ensure the payment of such amounts as may become necessary to effect the indemnification as provided in this Article IX or elsewhere. (Del. Code Ann., tit. 8, § 145(g)).

SECTION 68. DEFINITIONS. For the purposes of this Article IX, the following definition shall apply:

(a) The term “Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, member, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article IX with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued. (Del. Code Ann., tit. 8, § 145(h)).
(b) The term “other enterprises” shall include employee benefit plans (Del. Code Ann., tit. 8, § 145(i));

(c) The term “fines,” shall include any excise taxes assessed on a person with respect to any employee benefit plan (Del. Code Ann., tit. 8, § 145(i));

(d) References to “serving at the request of the Corporation,” shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants or beneficiaries (Del. Code Ann., tit. 8, § 145(i)); and

(e) A person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation,” as referred to in this Article IX. (Del. Code Ann., tit. 8, §145(i)).

SECTION 69. LIABILITY OF DIRECTORS. No director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that this, limitation of liability shall not eliminate or limit the liabilities of the directors for any breach of the director’s duty of loyalty to the Corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, under Section 174 of the DGCL, or for any transaction from which the director derived an improper personal benefit; provided, further, that this limitation of liability shall not eliminate or limit the liability of a director for any act or omission occurring prior to the adoption of these Bylaws.

SECTION 70. SURVIVAL OF RIGHTS. The rights conferred on any person by this Article IX shall continue as to a person who has ceased to be a director, executive officer, officer, employee or other agent and shall inure to the benefit of the heirs, executors and administrators of such a person. (Del. Code Ann., tit. 8, §145(j)).

SECTION 71. SAVINGS CLAUSE. If this Article IX or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of this Article IX that shall not have been invalidated, or by any other applicable law. If this Article IX shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the Corporation shall indemnify each director and executive officer to the full extent under any other applicable law.

SECTION 72. AMENDMENT OR REPEAL. Any repeal or modification of the provisions of this Article IX shall only be prospective and shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.
This First Amendment to Distribution, License, Development and Supply Agreement (the “Amendment”) is made and entered into effective as of May 31, 2016 (the “Effective Date”) by and between AstraZeneca UK Limited, a company incorporated in England under no. 3674842 whose registered office is at 2 Kingdom Street, London, W2 6BD, England (“AstraZeneca”), and Impax Laboratories, Inc., a Delaware corporation located at 30831 Huntwood Avenue, Hayward, CA 94544 (“Impax”), and amends that certain Distribution, License, Development and Supply Agreement by and between AstraZeneca and Impax dated January 31, 2012 (the “Agreement”). AstraZeneca and Impax are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Parties entered into the Agreement to grant Impax the right to distribute and sell certain pharmaceutical products containing zolmitriptan (Zomig®) in the Territory (as defined in the Agreement), to seek regulatory approval for one or more new indications with respect to such products, to develop one or more additional products for commercialization in the Territory, and other related rights described therein;

WHEREAS, among other things, AstraZeneca retained rights to continue to be the holder of NDAs for such products in the Territory, which included the obligation to complete certain Selected Mandated Studies (as defined in the Agreement);

WHEREAS, the Selected Mandated Studies include the obligation to conduct the juvenile toxicity study and pediatric study under PREA for the acute treatment of migraine in pediatric patients ages 6 to 11 years, as set forth by the U.S. Food and Drug Administration and further described in the protocol for such study attached as Exhibit A to this Amendment (the “PREA Commitment Study,” as further described below); and

WHEREAS, AstraZeneca and Impax have agreed to effect the transfer from AstraZeneca to Impax of certain activities and obligations with respect to the PREA Commitment Study on the terms and subject to the conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises and the mutual promises and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Definitions. Any capitalized term not otherwise defined in this Amendment shall have the meaning set forth in the Agreement.

2. Amendment to Article 1 (Definitions) of the Agreement. Article 1 of the Agreement is hereby amended by adding the following definitions:

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“1.226. “Party Written Consent” means (a) with respect to a matter to be agreed by the Parties, the mutual written agreement of the Parties or the mutual consent of the Parties in writing, in each case executed on behalf of each Party by an appropriate officer or employee of such Party and (b) with respect to a matter to be consented to or approved by a Party, the written consent or agreement of such Party executed by an appropriate officer or employee of such Party.”

“1.227. “PREA Commitment Study” means that certain Selected Mandated Study commitment required to be performed by the FDA [****] including (a) the activities set forth in the PREA Commitment Study Clinical Protocol, (b) the Toxicology Study, and (c) subject to Section 7.2.9, any subsequent amendments and modifications to the scope of such PREA Commitment Study, or any additional Studies as determined by the JDC, on the one hand, and the FDA, on the other hand.”

“1.228. “PREA Commitment Study Clinical Protocol” means the protocol for the PREA Commitment Study attached to this Amendment as Exhibit A.”

“1.229. “PREA Development Plan” means the written operational development plan to conduct the PREA Commitment Study as established by the JDC.”

“1.230. “PREA Study Obligations” means Impax’s obligations solely in relation to the PREA Commitment Study as set forth in Section 4.6 of this Agreement.”

“1.231. “PREA Toxicology Study” means the juvenile rat toxicology Study to be conducted by Impax over an expected period of [****] prior to the commencement of the activities set forth in the PREA Commitment Study Clinical Protocol. The protocol for the PREA Toxicology Study is attached to this Amendment as Exhibit B.”

3. Amendment to Article 2 (Governance) of the Agreement. Article 2 of the Agreement is hereby amended as follows:

(a) Section 2.2.1 of the Agreement is hereby amended by adding the Joint Development Committee to the definition of Joint Committees as follows:

“Within fifteen (15) days after the Effective Date, the Parties shall establish a joint operating committee (the “Joint Operating Committee” or “JOC” and collectively with the JSC and the JDC (as defined in Section 2.6.1), the “Joint Committees”):

(b) A new Section 2.6 shall be added to Article 2 as follows:

2.6. PREA Commitment Study Joint Development Committee.

2.6.1. Formation. Solely for the purposes of the conduct of the PREA Commitment Study, the Parties shall establish a joint development committee (the “Joint Development Committee” or “JDC”) by the date that is thirty (30) days after the Effective Date. The

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
JDC shall consist of three (3) representatives from each of the Parties, each with the requisite experience and seniority to enable such person to make decisions on behalf of the Parties with respect to the issues falling within the jurisdiction of the JDC. At least one (1) representative from each Party shall have a background in clinical operations, and at least one (1) representative from each Party shall have a regulatory affairs background. From time to time, each Party may substitute one (1) or more of its representatives to the JDC on written notice to the other Party. AstraZeneca shall select from its representatives the chairperson for the JDC. From time to time, AstraZeneca may change the representative who shall serve as chairperson on written notice to Impax. The general provisions applicable to the JOC set forth in Sections 2.3 and 2.4 shall apply to the conduct of the JDC during the duration of the PREA Commitment Study \textit{mutatis mutandis}. Upon the earlier of (i) full performance by Impax of the PREA Commitment Study and (ii) termination of Impax’s performance of the PREA Commitment Study in accordance with Sections 4.7.1 or 4.7.2, the JDC shall be dissolved and Sections 2.6.1, 2.6.2, 2.6.3 and 2.6.4 shall cease to be of any further effect.

\section*{2.6.2. Specific Responsibilities} Upon the formation of the JDC and subject in all cases to final approval by [****] the JDC shall agree upon and execute the PREA Development Plan. The PREA Development Plan shall consider all aspects of the conduct of the trial, including but not limited to, protocol development, site selection, the use of a contract research organization, CRF and database design, and such other matters as the JDC may determine are necessary based on FDA recommendations or requirements with respect to such Study. Such PREA Development Plan shall be finalized by the JDC within [****] of the formation of the JDC. For clarity, the Parties acknowledge and agree that the third sentence of Section 2.1.3(i) regarding escalation of certain disputes shall be inapplicable to disputes relating to the PREA Development Plan, and that [****] shall have final decision-making authority with respect to the PREA Development Plan and all regulatory interactions related thereto; provided, however, that [****] shall give good faith consideration to the input of [****] in making such decisions and in conducting such interactions.

\section*{2.6.3. General Responsibilities} In addition to the JDC’s specific responsibilities, the JDC shall serve as a general consultative forum to review and discuss the PREA Commitment Study. In particular, the JDC shall serve as a forum for:

(i) discussing and periodically reviewing any updates to the PREA Development Plan;

(ii) making such other decisions as may be delegated to the JDC pursuant to this Agreement, or otherwise by written agreement of the Parties;

(iii) establishing other working groups to implement the foregoing responsibilities, which working groups shall have such responsibilities and be comprised of such equal number of employees from each of the Parties with such expertise and seniority, as the JDC may direct from time to time, and supervise and direct the activities of such working groups and accept

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
reports and recommendations from such working groups;

(iv) discussing any proposed amendment to the scope of activities under PREA Development Plan and the nature and scope of any potential increase in the budget associated with such proposed amendment, as set forth in Section 7.2.9 of the Agreement;

(v) if applicable, discussing and agreeing upon the process associated with wind down, closing or transfer to AstraZeneca or a Third Party of the PREA Commitment Study; and

(vi) providing updates on the PREA Commitment Study to AstraZeneca.

2.6.4 Dispute Resolution. Each Party’s representatives on the JDC shall use reasonable efforts to reach consensus with the other Party’s representatives on all matters within the jurisdiction of the JDC. If the JDC cannot, or does not, reach consensus on an issue at a meeting (or within such other period as the Parties may mutually agree), then either Party shall have the right to refer the dispute to the JSC for resolution and a special meeting of the JSC shall be called for such purpose. For avoidance of doubt, the JDC shall not have decision-making power for any matter outside the scope of PREA Commitment Study, and notwithstanding any provision of this Agreement to the contrary, neither the JDC nor the JSC shall have the authority to alter or amend the PREA Development Plan without [****] express written consent.

4. Amendment to Article 4 (Development Activities) of the Agreement. Article 4 of the Agreement is hereby amended as follows:

(a) Section 4.1.1 of the Agreement is hereby amended by adding the following sentence immediately after the last sentence of the Section:

“Without limiting the foregoing, the Parties acknowledge and agree that Impax shall conduct the PREA Commitment Study in accordance with the provisions of Section 4.6 below unless and until Impax’s performance thereof is terminated pursuant to Section 4.7.1, 4.7.2 or 14.2.1 below. For clarity, except as specifically provided in this Agreement with respect to Impax’s performance of the PREA Commitment Study, the PREA Commitment Study shall continue to be construed as a Selected Mandated Study, as such term is defined and utilized in this Agreement.”

(b) Section 4.1.2 of the Agreement is hereby amended by adding the following subsection (iii):

“(iii) The foregoing subsections (i) and (ii) shall not apply to the PREA Commitment Study, which shall be conducted by Impax in accordance with Section 4.6 below. Notwithstanding the fact that Impax shall at any time perform the PREA Commitment Study, the PREA Commitment Study shall not for any purposes in this Agreement

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
be construed as an Impax Study, as such term is defined and utilized in this Agreement.”

(c) A new Section 4.1.6 shall be added to Section 4.1 as follows:

“4.1.6 Ownership and Use of Study Data from Selected Mandated Studies. AstraZeneca shall be the sole owner of all Study Data arising from the Selected Mandated Studies, including the PREA Commitment Study (the “Selected Mandated Study Data”). Impax shall provide AstraZeneca with copies of all Study Data arising from the PREA Commitment Study upon AstraZeneca’s request, or in any event following completion of the PREA Commitment Study. AstraZeneca hereby grants to Impax a non-exclusive, perpetual, royalty-free, license (including a right of reference) to access and use the Selected Mandated Study Data in connection with the development (including regulatory activities) manufacture, use and sale of Licensed Products and products containing the Licensed Compound in the Field and in the Territory.”

(d) Section 4.2 of the Agreement is hereby amended to read as follows:

“4.2. Development Costs. Except as provided herein, Impax shall be responsible for all costs and expenses in connection with (i) all Impax Studies and (ii) Impax’s performance of the PREA Commitment Study. For the avoidance of doubt, AstraZeneca shall bear, and shall not be entitled to reimbursement for, any costs and expenses incurred in connection with the performance of (i) the Selected Mandated Studies (other than the PREA Commitment Study) and (ii) the PREA Commitment Study to the extent performed by any person other than Impax, its Affiliates, Sublicensees, Subcontractors or any other Third Party acting on behalf of Impax in connection therewith. This Section 4.2 is without prejudice to the PREA Royalty Reduction, which shall apply as set forth in Section 7.2.8.”

(e) Section 4.5.2 of the Agreement is hereby amended to read as follows:

“4.5.2 Through the JOC, AstraZeneca shall keep Impax reasonably informed on at least a quarterly basis with regard to the progress and status of the Selected Mandated Studies (other than the PREA Commitment Study) and any AstraZeneca Study.”

(f) A new Section 4.6 shall be added to Article 4 as follows:

“4.6. PREA Commitment Study.

4.6.1 Conduct of the PREA Commitment Study. Notwithstanding the foregoing Section 4.1.1 or anything to the contrary in this Agreement, Impax shall perform the PREA Commitment Study in accordance with the remainder of this Section 4.6. Impax (and its Affiliates and Subcontractors) shall perform the PREA Commitment Study in accordance with the PREA Development Plan and shall use Commercially

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Reasonable Efforts to complete and prepare the final clinical study report for the PREA Commitment Study within the timeframe set forth in the PREA Development Plan; provided, however, [****]. With respect to the PREA Commitment Study, Impax shall be responsible for day-to-day decisions regarding its own performance of the PREA Commitment Study in accordance with the PREA Development Plan, including but not limited to:

(i) planning individual activities;

(ii) deciding on how and when to assign what resources and execute other activities needed to complete the work;

(iii) determining if the PREA Commitment Study will be undertaken by contract research organizations; provided, that the selection of a contract research organization to the PREA Commitment Study will be subject to Party Written Consent of both Impax and AstraZeneca, where such consent shall not be unreasonably withheld or delayed by either Party;

(iv) site selection; and

(v) CRF and database design.

4.6.2 Regulatory Documentation. As set forth in Section 5.2.1, AstraZeneca shall continue to hold the IND, NDA and Product Labeling and Inserts and shall be the regulatory sponsor for the PREA Commitment Study regardless of whether Impax, AstraZeneca or any third person performs activities in relation to such Study. AstraZeneca shall be responsible, at AstraZeneca’s sole expense, for the preparation and filing of all Regulatory Documentation in relation to the PREA Commitment Study, including without limitation the application and any documentation required in connection with any supplemental NDA for a Licensed Product, as set forth in Section 5.2.1, regardless of whether Impax, AstraZeneca or any third person performs activities in relation to such Study. AstraZeneca shall also be responsible for reporting to any Regulatory Authority information relating to serious adverse events (“SAEs”) arising from Impax’s performance of the PREA Commitment Study, provided that Impax will promptly notify AstraZeneca of the occurrence of any such SAE, and shall provide AstraZeneca with data and information relating to the SAE and required pursuant to the Safety Agreement, or that is necessary for AstraZeneca to fulfill such reporting obligation under Applicable Law, and Impax shall reasonably cooperate with AstraZeneca in connection with such reporting. All such Regulatory Documentation shall be owned by AstraZeneca in accordance with Section 5.1.1. Without limiting the foregoing, Impax shall be responsible for preparing and providing to AstraZeneca upon preparation thereof the annual summary required by the FDA of activities conducted in relation to the PREA Commitment Study during such twelve (12) month period.
4.6.3 Clinical Supply. AstraZeneca shall be responsible, at its expense, for supplying all Licensed Products, as well as any control, comparator or placebo compound for use in the PREA Commitment Study as set forth in the PREA Development Plan regardless of whether Impax, AstraZeneca or any Third Party performs such Study.”

(g) A new Section 4.7 shall be added to Article 4 as follows:

“4.7. Termination of Impax’s Obligation to Perform the PREA Commitment Study

4.7.1 Termination for Safety Reasons. AstraZeneca shall have the right to terminate Impax’s continued performance of the PREA Commitment Study with immediate effect by giving written notice that AstraZeneca in good faith believes that Impax’s continued performance of the PREA Commitment Study would present a substantial safety risk.

4.7.2 Other Termination. Either Party may, subject to Section 4.7.3, terminate Impax’s continued performance of the PREA Commitment Study upon written notice to the other Party if:

(i) the FDA determines in writing that it no longer requires the PREA Commitment Study to be completed;

(ii) the FDA (i) requires that the PREA Commitment Study [****];

(iii) the FDA requires any other change to the design of the PREA Commitment Study as currently envisaged in the PREA Commitment Study Clinical Protocol, that would, in Impax’s reasonable opinion, result in non-reimbursable costs to Impax, to the extent associated with such material changes and excluding any other costs incurred by Impax, of more than [****]; or

(iv) the JDC or AstraZeneca establishes a PREA Development Plan or subsequently amends an existing PREA Development Plan to include additional activities that are not expressly contemplated in the PREA Commitment Study Clinical Protocol and which would if undertaken, in Impax’s reasonable opinion, result in non-reimbursable costs to Impax, to the extent associated with such additional activities and excluding any other costs incurred by Impax, of more than [****].

4.7.3 Alternatives to Termination. Prior to any termination of Impax’s performance of the PREA Commitment Study by either Party, the Parties shall first refer the matter giving rise to a potential termination right to the JDC for good faith discussion of potential resolution of such matter without requiring termination of Impax’s continued performance of the PREA Commitment Study.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
4.7.4  Effects of Termination of the PREA Commitment Study. If either Party elects to terminate Impax’s continued performance of the PREA Commitment Study prior to completion pursuant to Sections 4.7.1 or 4.7.2, the Parties shall promptly meet to discuss the process for either (a) winding down and closing the PREA Commitment Study, or (b) in the case of termination under Section 4.7.2(b) through (d), at AstraZeneca’s request and reasonable discretion, transferring the conduct of the PREA Commitment Study to AstraZeneca or a Third Party. Termination of Impax’s performance of the PREA Commitment Study pursuant to this Section 4.7 at any time shall relieve Impax of any further obligation to conduct the PREA Commitment Study other than as may be required in connection with any transfer to AstraZeneca or a Third Party, any winddown activities or as otherwise required by Applicable Law. To the extent the FDA thereafter continues to require the performance of the PREA Commitment Study, AstraZeneca shall conduct such Study in accordance with its general obligations under Section 4.1.1. Section 7.2.10 shall apply following any termination of Impax’s performance of the PREA Commitment Study.”

5.  Amendment to Article 7 (Payments and Records) of the Agreement. Article 7 of the Agreement is hereby amended as follows:

(a) The first sentence of Section 7.2.4 shall be amended to read as follows:

“7.2.4. Maximum Amount of Royalty Reduction. Notwithstanding any term or condition of this Agreement to the contrary, except as set forth in Section 7.2.8 and 7.2.9, in no event shall the royalties payable to AstraZeneca pursuant to Sections 7.2.1 and 7.2.2 be reduced by more than [****] in any Calendar Quarter as a result of any reductions, offsets or setoffs permitted pursuant to this Agreement, whether taken in a Calendar Quarter alone or in the aggregate with other permitted reductions or offsets, including pursuant to Section 7.2.3 and Section 8.15.”

(b) The first sentence of Section 7.2.5 shall be amended to read as follows:

“7.2.5. Other Limitation on Royalty Reductions. Notwithstanding any right of offset or reduction of royalties provided in this Agreement, except as provided in Sections 7.2.8 and 7.2.9, in no event shall any offset or reduction in royalties payable by Impax, including pursuant to Sections 7.2.3, 8.15, 10.4.2, and 10.6 whether such reduction is calculated alone or as aggregated with other permitted reductions or offsets, cause the royalty amount payable by Impax to AstraZeneca in any Calendar Quarter to fall below the [****] with respect to such Calendar Quarter [****] in the Territory.”

(c) New Sections 7.2.8, 7.2.9 and 7.2.10 shall be added to Article 7 as follows:

“7.2.8 Royalty Adjustment for PREA Commitment Study. In consideration for Impax’s agreement to conduct and bear the costs and expenses associated with the PREA Commitment Study, the Parties agree that commencing in the Calendar Quarter ending June 30, 2016, the total Royalty Payments payable by Impax to AstraZeneca in each Calendar Quarter shall be [****] as follows:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Quarter under this Section 7.2 shall be reduced in the absolute amounts set forth in the table below, in an aggregate absolute amount of thirty million dollars ($30,000,000) (such amounts, the “PREA Royalty Reduction”):

<table>
<thead>
<tr>
<th>Year</th>
<th>Calendar Quarter</th>
<th>Reduction of Aggregate Royalty Payment in each applicable Calendar Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>Calendar Quarter ending June 30, 2016</td>
<td>$[****]</td>
</tr>
<tr>
<td>2016</td>
<td>Calendar Quarter ending September 30, 2016</td>
<td>$[****]</td>
</tr>
<tr>
<td>2016</td>
<td>Calendar Quarter ending December 31, 2016</td>
<td>$[****]</td>
</tr>
<tr>
<td>2017</td>
<td>Calendar Quarter ending March 31, 2017</td>
<td>$[****]</td>
</tr>
<tr>
<td>2017</td>
<td>Calendar Quarter ending June 30, 2017</td>
<td>$[****]</td>
</tr>
<tr>
<td>2017</td>
<td>Calendar Quarter ending September 30, 2017</td>
<td>$[****]</td>
</tr>
<tr>
<td>2017</td>
<td>Calendar Quarter ending December 31, 2017</td>
<td>$[****]</td>
</tr>
<tr>
<td>2018</td>
<td>Calendar Quarter ending March 31, 2018</td>
<td>$[****]</td>
</tr>
<tr>
<td>2018</td>
<td>Calendar Quarter ending June 30, 2018</td>
<td>$[****]</td>
</tr>
<tr>
<td>2018</td>
<td>Calendar Quarter ending September 30, 2018</td>
<td>$[****]</td>
</tr>
<tr>
<td>2018</td>
<td>Calendar Quarter ending December 31, 2018</td>
<td>$[****]</td>
</tr>
<tr>
<td>2019</td>
<td>Calendar Quarter ending March 31, 2019</td>
<td>$[****]</td>
</tr>
<tr>
<td>2019</td>
<td>Calendar Quarter ending June 30, 2019</td>
<td>$[****]</td>
</tr>
<tr>
<td>2019</td>
<td>Calendar Quarter ending September 30, 2019</td>
<td>$[****]</td>
</tr>
</tbody>
</table>

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
2019 Calendar Quarter ending December 31, 2019 $[****]  
2020 Calendar Quarter ending March 31, 2019 $[****]  
2020 Calendar Quarter ending June 30, 2020 $[****]  
2020 Calendar Quarter ending September 30, 2020 $[****]  
2020 Calendar Quarter ending December 31, 2020 $[****]  

Total PREA Royalty Reduction $30,000,000

For clarity, the PREA Royalty Reduction shall apply in each Calendar Quarter for the Calendar Years set forth in the table above after any deductions applicable under Sections 7.2.3, 8.15, 10.4.2 and 10.6, and shall not be subject to the limitations set forth in Sections 7.2.4 and 7.2.5. If the PREA Royalty Reduction in any Calendar Quarter calculated in accordance with the table above exceeds the amount of the aggregate of the Royalty Payments payable to AstraZeneca in such Calendar Quarter, the Royalty Payment owed for such Calendar Quarter shall be reduced to zero dollars ($0) and AstraZeneca shall pay to Impax in immediately available funds, within [****] following the delivery by Impax to AstraZeneca of the reports and payments for such Calendar Quarter under Section 7.3, an amount equal to the difference between the absolute amount of the applicable PREA Royalty Reduction and the Royalty Payment that would have been owed for such Calendar Quarter prior to application of the PREA Royalty Reduction. For clarity, any completion by Impax of the PREA Commitment Study prior to the date of application of the last PREA Royalty Reduction shall not in any way reduce the aggregate PREA Royalty Reduction set forth in the table above, or in way vary the dates of application thereof as set forth herein this Section 7.2.8.

7.2.9 Changes to PREA Commitment Study. The Parties acknowledge and agree that in the event that (a) the FDA requires changes to the design and/or scope of the PREA Commitment Study or (b) the JDC or the JSC requires Impax to perform additional activities that are not included within the PREA Commitment Study Clinical Protocol, the Parties, through the JDC, shall promptly estimate in good faith any additional costs associated with such changes that are in Impax’s reasonable opinion reasonably likely to be incurred by Impax in performance thereof and thereafter the Parties shall, prior to the implementation of such changes to the design and/or scope of the PREA Commitment Study by Impax or the performance by Impax of such additional activities, discuss and agree upon an increase in the amount of the PREA Royalty Reduction (and the Calendar Quarters in which such PREA Royalty Reduction shall apply) to compensate Impax for such additional costs.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
7.2.10 **Royalty Reduction in the Event of Early Termination.** In the event Impax’s performance of the PREA Commitment Study is terminated by either Party prior to completion in accordance with Section 4.7.1 or 4.7.2 (but not, for the avoidance of doubt, in the event of an alleged material breach by Impax of its PREA Study Obligations), the PREA Royalty Reduction shall continue to apply following the effective date of such termination for the limited periods set forth as follows:

(i) if the effective date of termination occurs prior to [***], the PREA Royalty Reduction shall apply in full as set forth in the table in Section 7.2.8, up to and including the end of the [***] after which no further PREA Royalty Reduction shall apply towards future Royalty Payments;

(ii) if the effective date of termination occurs between [***], the PREA Royalty Reduction shall apply in full for the Calendar Quarter in which such termination occurs, and for the following [***] Calendar Quarters after which no further PREA Royalty Reduction shall apply towards future Royalty Payments;

(iii) if the effective date of termination occurs between [***], the PREA Royalty Reduction shall apply in full for the Calendar Quarter in which such termination occurs, and for the following [***] Calendar Quarters after which no further PREA Royalty Reduction shall apply towards future Royalty Payments; and

(iv) if the effective date of termination occurs between [***], the PREA Royalty Reduction shall apply in full through to [***], provided that if the Parties agree upon additional funding for the PREA Commitment Study pursuant to Section 7.2.9 such that the PREA Royalty Reduction continues to apply after [***], the Parties shall also agree upon an equitable adjustment to the application of the PREA Royalty Reduction upon any termination of the PREA Commitment Study based on the principles set forth in this Section 7.2.10 (iii) and (iv) after which no further PREA Royalty Reduction shall apply towards future Royalty Payments.

For clarity, in no event will any amounts already applied by Impax by way of a PREA Royalty Reduction in any Calendar Quarter prior to the effective date of termination of Impax’s performance of the PREA Commitment Study be refundable to AstraZeneca. Following the conclusion or transfer of the PREA Commitment Study, and following the application of the PREA Royalty Reductions following termination as set forth in this Section 7.10.2(i) through (iv), as applicable, the Royalty Payments shall revert to those as expressed under Section 7.2 of the Agreement without application of the PREA Royalty Reduction.”

6. **Amendment to Article 13 (Indemnity) of the Agreement.** Article 13 of the Agreement is hereby amended as follows:

[***] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(a) Section 13.1.8 shall be amended to read as follows:

“13.1.8 the conduct of any Impax Study or the breach, gross negligence, or willful or intentional misconduct by Impax in the conduct of the PREA Commitment Study:”

(b) Section 13.2.7 shall be amended to read as follows:

“13.2.7 the conduct of the Selected Mandated Studies or any AstraZeneca Studies;”

7. Amendment to Article 14 (Term, Termination and Other Remedies) of the Agreement. Article 14 of the Agreement is hereby amended as follows:

(a) Section 14.2.1 shall be amended to read as follows:

“14.2.1. Material Breach. If either Party (the “Non-Breaching Party”) believes that the other Party (the “Breaching Party”) has materially breached one or more material obligations under this Agreement, then the Non-Breaching Party may deliver notice of such material breach to the Breaching Party (a “Default Notice”). If the Breaching Party disputes that it has committed a material breach of one or more of its material obligations under this Agreement, then it may refer the matter to the JOC or, in relation to any alleged material breach of the PREA Study Obligations, the JDC for dispute resolution in accordance with Section 2.2.3 or, solely in connection to disputes in relation to the PREA Study Obligations, Section 2.6.4, and, if the JOC is unable to resolve the dispute as contemplated in Section 2.2.3 or the JDC is unable to resolve the dispute as contemplated in Section 2.6.4, then to the JSC for dispute resolution in accordance with Sections 2.1.1 and 2.1.3 (except that (i) the provisions of the third sentence of Section 2.1.3(i) (regarding the power to make final resolutions held by the Senior Officer of Impax) and (ii) disputes in connection to the PREA Study Obligations shall not apply for purposes of this Section 14.2.1). If the JOC and the JSC or, in relation to any alleged material breach of the PREA Study Obligations, the JDC and JSC, are unable to resolve the dispute, and the Breaching Party fails to cure such alleged breach within [****] after the receipt of the Default Notice, or in the case of a Payment default, within [****] after receipt of the Default Notice, the Non-Breaching Party may: (i) in the event of a material breach other than an alleged material breach by Impax of its PREA Study Obligations, terminate this Agreement upon written notice to the Breaching Party and (ii) in the event of an alleged material breach by Impax of its PREA Study Obligations, AstraZeneca may immediately terminate Impax’s continued performance of the PREA Commitment Study, in which case no further PREA Royalty Reduction shall apply towards future Royalty Payments. Notwithstanding the foregoing, in the event of a breach (other than a payment breach or a breach by Impax under Section 3.5) cannot be cured within such [****] period, the period for cure may be extended an additional [****] provided that the Breaching Party has promptly commenced efforts to cure such breach after the Default Notice and thereafter diligently continues such efforts. For clarity, breach by Impax of the PREA Study Obligations shall not give rise to any right of AstraZeneca to terminate this Agreement.”

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) Section 14.3.1 shall be amended to read as follows:

“14.3.1. Except with respect to the PREA Commitment Study and the PREA Study Obligations, termination of which is exclusively governed by Section 4.7 of this Agreement, Impax may terminate this Agreement any time after December 31, 2015, by giving AstraZeneca [****] prior written notice thereof.”

8. **No Other Amendments.** Except as expressly amended by this Amendment, all of the terms and conditions of the Agreement remain in full force and effect and apply equally to this Amendment.

9. **Counterparts; Facsimile Execution.** This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Amendment may be executed by facsimile or electronically transmitted signatures and such signatures shall be deemed to bind each Party hereto as if they were original signatures.

THIS AMENDMENT IS EXECUTED by the authorized representatives of the Parties as of the date first written above.

**ASTRAZENECA UK LIMITED**

By: /s/ William (Liam) Mcllveen
Name: William (Liam) Mcllveen
Title: Authorized Signatory

**IMPAX LABORATORIES, INC.**

By: /s/ Fred Wilkinson
Name: Fred Wilkinson
Title: President and CEO

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT ("Agreement"), entered into as of July 14, 2016, by and between Impax Laboratories, Inc., a Delaware corporation (the "Company"), and Douglas S. Boothe (the "Executive").

WITNESSETH:

WHEREAS, the Executive possesses unique personal knowledge, experience and expertise;

WHEREAS, effective as of August 1, 2016 (the "Effective Date"), the Company desires to employ the Executive, and the Executive desires to be employed by the Company, upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the Company and the Executive desire to enter into this Agreement as to the terms and conditions of the Executive’s employment with the Company effective as of the Effective Date.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. EMPLOYMENT AND DUTIES

   1.1 Term of Employment. The Executive’s initial term of employment under this Agreement shall commence on the Effective Date and shall continue until the second anniversary of the Effective Date (the “Initial Term”), unless further extended or earlier terminated as provided in this Agreement.
This Agreement will automatically be renewed for single one-year periods unless written notice of non-renewal (a “Non-Renewal Notice”) is provided by either party at least 90 days prior to the end of the Initial Term or the successive one-year period then in effect or unless earlier terminated as provided in this Agreement. Neither non-renewal of this Agreement for additional periods after the second anniversary of the Effective Date, nor expiration of this Agreement as a result of such non-renewal, shall, by itself, result in termination of Executive’s employment. The period of time between the Effective Date and the termination of the Executive’s employment under this Agreement or the expiration of this Agreement, whichever is earlier, shall be referred to herein as the “Term.”

1.2 General.

1.2.1 During the Term, the Executive shall have the title of President, Generics Division, and shall have general supervision of the Company’s generics division and such other authorities, duties and responsibilities as may from time to time be delegated to him by the Chief Executive Officer of the Company. The Executive shall faithfully and diligently discharge the Executive’s duties hereunder and use the Executive’s best efforts to implement the policies established by the Board of Directors of the Company (the “Board”) from time to time. During the Term, the Executive shall report directly to the Chief Executive Officer of the Company.

1.2.2 The Executive shall devote all of the Executive’s business time, attention, knowledge and skills faithfully, diligently and to the best of the Executive’s ability, in furtherance of the business and activities of the Company; provided, however, that nothing in this Agreement shall preclude the Executive from devoting reasonable periods of time required for:
(i) serving as a director or member of a committee of up to two (2) organizations or corporations that do not, in the good faith determination of the Board, compete with the Company or otherwise create, or could create, in the good faith determination of the Board, a conflict of interest with the business of the Company;

(ii) delivering lectures, fulfilling speaking engagements, and any writing or publication relating to his area of expertise; provided, however, that any fees, royalties or honorariums received therefrom shall be promptly turned over to the Company;

(iii) engaging in professional organization and program activities;

(iv) managing his personal passive investments and affairs; and

(v) participating in charitable or community affairs;

provided that such activities do not materially, individually or in the aggregate, interfere with the due performance of his duties and responsibilities under this Agreement or create a conflict of interest with the business of the Company, as determined in good faith by the Board.

1.3 Reimbursement of Expenses. During the Term, the Company shall pay the reasonable expenses incurred by the Executive in the performance of the Executive’s duties hereunder, including, without limitation, those incurred in connection with business related travel or entertainment, or, if such expenses are paid directly by the Executive, the Company shall promptly reimburse him for such payments, provided that the Executive properly accounts for such expenses in accordance with the Company’s business expense reimbursement policy. To the extent any such reimbursements (and any other reimbursements of costs and expenses provided for herein) are includable in the Executive’s gross income for Federal income tax purposes, all such reimbursements shall be made no later than March 15 of the calendar year next following the calendar year in which the expenses to be reimbursed are incurred.
2. COMPENSATION

2.1 Base Salary. During the Term, the Executive shall be entitled to receive a base salary at the annual rate of $540,000, subject to increase or decrease, only if salary decreases are concurrently implemented across the senior executives of the Company, as determined by the Board or its Compensation Committee from time to time in its discretion, payable in accordance with the payroll practices of the Company (the “Base Salary”).

2.2 Incentive Bonuses. In addition to the Base Salary, during the Term the Executive shall participate in the Company’s management bonus program whereby the Executive will be eligible to receive an annual cash incentive bonus based upon a percentage of the Base Salary and attainment of goals established in writing by the Board or its Compensation Committee at the beginning of each year (the “Incentive Bonus”) for each completed calendar year (subject to Section 5.4 hereof) of service with the Company. Such bonus shall be paid within 2-1/2 months following the end of the calendar year to which it relates. The Executive’s Incentive Bonus for 2016 (targeted at 60% of the Base Salary and potentially up to 90% of the Base Salary depending upon the achievement of certain business and individual objectives and criteria) will be prorated based on the number of days elapsed in the year before and after the Effective Date.

2.3 Signing Bonus. The Company will pay to the Executive a one-time sign-on bonus of $250,000 (representing the gross amount before applicable taxes and other required withholdings) to be paid as soon as administratively practical following the Effective Date (the “Signing Bonus”). Notwithstanding the foregoing, the Executive acknowledges and agrees that the Signing Bonus shall not be deemed earned in full until the second anniversary of the Effective Date. In the event the Executive terminates the Executive’s employment for any reason or the Company terminates the Executive’s employment for Cause (as defined below), then the Executive shall be required to reimburse the Company for the Signing Bonus as follows: (A) if such termination occurs prior to the first anniversary of the Effective Date, then the Executive shall
reimburse the Company for 100% of the gross amount of the Signing Bonus and (B) if such termination occurs on or after the first anniversary of the Effective Date and prior to the second anniversary of the Effective Date, then the Executive shall reimburse the Company for 50% of the gross amount of the Signing Bonus. The Executive’s execution of this Agreement authorizes the Company to deduct the amount of the Signing Bonus required to be reimbursed pursuant to the preceding sentence from the Executive’s final paycheck should this occur. If there are any amounts not covered by the Executive’s final paycheck, then the Executive agrees to reimburse the Company for such amounts in cash within thirty (30) days of the Executive’s termination of employment.

2.4 **Equity Awards.** Subject to approval by the Board or its Compensation Committee, on the Effective Date or as soon as reasonably practicable thereafter, the Company shall grant the Executive new hire equity awards having a target value as determined by the Company of approximately $2,400,000, which will be split between a stock option and restricted stock award, with 25% of the value being allocated to the stock option award and 75% of the value being allocated to the restricted stock award. Each of the stock option award and the restricted stock award will vest in respect of 25% of the total number of shares underlying the applicable award on each of the first four anniversaries of the Effective Date, subject to the Executive’s continuous employment with the Company through the applicable vesting date. The grant of the equity awards is subject to the terms and conditions of the Company’s equity incentive plan and form award agreements. Further details on the Company’s equity incentive plan and any specific grant to the Executive will be provided upon approval of such grant.

2.5 **Additional Compensation.** During the Term, in addition to the foregoing, the Executive shall be eligible to receive such other compensation as may from time to time be awarded to the Executive by either the Board or its Compensation Committee in its sole discretion.
3. **PLACE OF PERFORMANCE**

In connection with the Executive’s employment by the Company, the Executive shall be based at the Company’s offices in Bridgewater, New Jersey.

4. **EMPLOYEE BENEFITS**

During the Term, the Executive shall be entitled to paid time off generally made available to executive personnel of the Company and to participate in and have the benefit of all group life, disability, hospital, surgical and major medical insurance plans and programs and other employee benefit plans and programs as generally are made available to executive personnel of the Company, as such benefit plans or programs may be amended or terminated in the sole discretion of the Board and with the concurrence of the Compensation Committee, from time to time. The Executive shall accrue up to twenty (20) days paid time off each calendar year which will accrue in accordance with the Company’s Paid Time Off (PTO) & Holiday Policy.

5. **TERMINATION OF EMPLOYMENT**

5.1 **General.** The Executive’s employment under this Agreement may be terminated without any breach of this Agreement only on the following circumstances:

- **5.1.1 Death.** The Executive’s employment under this Agreement shall terminate upon his death.

- **5.1.2 Disability.** If the Executive suffers a Disability (as defined below), the Company may terminate the Executive’s employment under this Agreement upon 30 days prior written notice; provided that the Executive has not returned to full time performance of his duties during such 30-day period. For purposes of this Agreement, “**Disability**” shall mean the Executive’s inability to perform his duties and responsibilities hereunder, with or without reasonable accommodation, due to any
physical or mental illness or incapacity, which condition either (i) has continued for a period of 180 days (including weekends and holidays) in any consecutive 365-day period, or (ii) is projected by the Board in good faith after consulting with a doctor selected by the Company and consented to by the Executive (or, in the event of the Executive’s incapacity, his legal representative), such consent not to be unreasonably withheld, that the condition is likely to continue for a period of at least six consecutive months from its commencement.

5.1.3 **Good Reason.** The Executive may terminate his employment under this Agreement for Good Reason (as defined below) at any time on or prior to the 60th day after the occurrence of any of the Good Reason events set forth in the following sentence. For purposes of this Agreement, “**Good Reason**” shall mean the occurrence of any of the following events without the Executive’s consent and which is not cured by the Company upon written notice by the Executive, such notice to have been provided by the Executive within 30 days of any such event having occurred:

(i) any action or inaction by the Company constituting a material breach of the Agreement by the Company;

(ii) a material diminution of the authorities, duties or responsibilities of the Executive set forth in Section 1.2 above (other than temporarily while the Executive is physically or mentally incapacitated and unable to properly perform such duties, as determined by the Board in good faith);

(iii) the material diminution in any of the titles of the Executive with the Company set forth in Section 1.2 above;

(iv) a material reduction by the Company in the Base Salary or in any of the percentages of the Base Salary payable as an Incentive Bonus, but, except in the case of a reduction following a Change in Control (as defined below), not including (a) a reduction in the Base Salary or
in any of the percentages of the Base Salary payable as an Incentive Bonus which is consistent with the reduction in the Base Salary or in any of the percentages of the Base Salary payable as an Incentive Bonus imposed on all senior executives of the Company or (b) a reduction in the Base Salary or in any of the percentages of the Base Salary payable as an Incentive Bonus based on the results of peer benchmark data obtained by the Board and after approval of the Board;

(v) the relocation of the Executive’s principal office to an office more than 50 miles from its then current location;

(vi) the assignment to the Executive of duties or responsibilities that are negatively and materially inconsistent with any of his duties and responsibilities set forth in Section 1.2 hereof;

(vii) a material negative change in the reporting structure set forth in Section 1.2.1 hereof;

(viii) the delivery to Executive by the Company of a Non-Renewal Notice; or

(ix) the failure of the Company to obtain the assumption in writing of its obligation to perform this Agreement by any successor in connection with a sale or other disposition by the Company of all or substantially all of the Company’s assets or businesses within 10 days after such sale or other disposition.

5.1.4 Without Good Reason. The Executive may voluntarily terminate his employment under this Agreement without Good Reason upon written notice by the Executive to the Company at least 60 days prior to the effective date of such termination (which termination the Company may, in its sole discretion, make effective earlier than the date set forth in the Notice of Termination (as defined below)).
5.1.5 **Cause**. The Company may terminate the Executive’s employment under this Agreement at any time for Cause (as defined below). For purposes of this Agreement, termination for “Cause” shall mean termination of the Executive’s employment because of the occurrence of any of the following as determined in good faith by the Board:

(i) the willful and continued failure by the Executive to substantially perform his obligations under this Agreement (other than any such failure resulting from the Executive’s incapacity due to a Disability); provided, however, that the Company shall have provided the Executive with a Notice of Termination specifying such failure and the Executive shall have been afforded at least 15 days within which to cure same;

(ii) the indictment of the Executive for, or the Executive’s conviction of or plea of guilty or *nolo contendere* to, a felony or any other crime involving moral turpitude or dishonesty;

(iii) the Executive’s willful misconduct in the performance of his duties hereunder (including theft, fraud, embezzlement, and securities law violations or violation of the Company’s Code of Conduct or other written policies); or

(iv) the Executive’s willful misconduct other than in the performance of his duties for the Company (including theft, fraud, embezzlement, and securities law violations) that is actually or potentially materially injurious to the Company, monetarily or otherwise.

For purposes of this Section 5.1.5, no act or failure to act on the part of the Executive shall be considered “willful,” unless done, or omitted to be done, without reasonable belief that his action or omission was in, or not opposed to, the best interest of the Company (including its reputation). Prior to any termination for Cause, the Company shall provide the Executive with a Notice of Termination specifying the event constituting Cause and shall give the Executive the opportunity to appear before the Board to present his views on the Cause event. If, after such hearing, the majority of the full...
Board (excluding the Executive) does not support such termination, the Notice of Termination shall be rescinded. After providing the notice in the foregoing sentence, the Board may suspend the Executive with full pay and benefits until a final determination pursuant to this Section has been made.

5.1.6 **Without Cause.** The Company may terminate the Executive’s employment under this Agreement without Cause immediately upon written notice by the Company to the Executive, other than for death or Disability.

5.2 **Notice of Termination.** Any termination of the Executive’s employment by the Company or by the Executive (other than termination by reason of the Executive’s death) shall be communicated by written Notice of Termination to the other party of this Agreement. For purposes of this Agreement, a “**Notice of Termination**” shall mean a written notice which shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide the basis for such termination.

5.3 **Date of Termination.** The “**Date of Termination**” shall mean (a) if the termination is the result of the Executive’s death, the date of the Executive’s death, (b) if the termination is pursuant to Section 5.1.2 hereof, 30 days after the Notice of Termination is given (provided that the Executive shall not have returned to the performance of his duties on a full-time basis during such 30-day period), (c) if the termination is pursuant to Section 5.1.5 or Section 5.1.3 hereof, the date specified in the Notice of Termination after the expiration of any applicable cure period, (d) if the termination is pursuant to Section 5.1.4 hereof, the date specified in the Notice of Termination which shall be at least 60 days after the Notice of Termination is given, or such earlier date as the Company shall determine in its sole discretion, and (e) if the termination is pursuant to Section 5.1.6 hereof, the date on which the Notice of Termination is given.

5.4 **Compensation Upon Termination.**
5.4.1 **Termination for Cause or without Good Reason.** If the Executive’s employment shall be terminated by the Company for Cause or by the Executive without Good Reason, the Executive shall receive from the Company: (a) any earned but unpaid Base Salary through the Date of Termination, paid in accordance with the Company’s standard payroll practices; (b) any Incentive Bonus earned but unpaid for a prior fiscal year, paid in accordance with Section 2.2 (including payment timing); (c) reimbursement for any unreimbursed expenses properly incurred and paid in accordance with Section 1.3 hereof through the Date of Termination; (d) payment for any accrued but unused vacation time in accordance with Company policy; (e) all stock options and restricted stock previously granted to the Executive that have vested in accordance with the terms of such grants; and (f) such vested accrued benefits, and other payments, if any, as to which the Executive (and his eligible dependents) may be entitled under, and in accordance with the terms and conditions of, the employee benefit arrangements, plans and programs of the Company as of the Date of Termination, other than any severance pay plan (such amounts and benefits set forth in clauses (a) though (f) being referred to hereinafter as the “**Amounts and Benefits**”), and the Company shall have no further obligation with respect to this Agreement other than as provided in Sections 7.4, 8 and 9 hereof. Any stock options and restricted stock previously granted to the Executive that have not vested in accordance with the terms of their grants as of the Date of Termination shall be forfeited as of the Date of Termination.

5.4.2 **Termination without Cause or For Good Reason.** If, prior to the expiration of the Term, the Executive resigns from his employment hereunder for Good Reason or the Company terminates the Executive’s employment hereunder without Cause (other than a termination by reason of death or Disability), and Section 5.4.3 does not apply, then the Company shall pay or provide the Executive the Amounts and Benefits and, subject to Section 5.4.8:
(i) Subject to Section 9.10.2, an amount equal to the sum of (x) one and a half times the Base Salary as then in effect (without taking into account any reduction therein that constitutes a basis for Good Reason), whichever is the greater, plus (y) one and a half times the average of the Incentive Bonus the Executive received from the Company for all fiscal years completed during the Term, with the aggregate amount due paid in equal installments on the Company’s normal payroll dates for a period of 12 months from the Date of Termination in accordance with the normal payroll practices of the Company, with each such payment deemed to be a separate payment for the purposes of Code Section 409A (as defined below);

(ii) in the event such resignation or termination occurs following the Company’s first fiscal quarter of any year, a pro rata portion of the Executive’s Incentive Bonus for the fiscal year in which the Executive’s termination occurs based on actual results for such year (determined by multiplying the amount of such Incentive Bonus which would be due for the full fiscal year, as determined in good faith by the Board, by a fraction, the numerator of which is the number of days during the fiscal year of termination that the Executive is employed by the Company and the denominator of which is 365), paid in accordance with Section 2.2 (including payment timing, “Pro Rata Bonus”); and

(iii) the continuation of all benefits for 24 months from the Date of Termination.

In addition, subject to Section 5.4.8, the vesting of all unvested stock options and restricted stock previously granted to the Executive shall be accelerated by 12 months, and any such stock options, notwithstanding any provision to the contrary in the option or the plan pursuant to which the option was granted, shall remain exercisable until the earlier of the first anniversary of the Date of Termination or the original expiration date of the option.
5.4.3 **Termination Following Change in Control**. Anything contained herein to the contrary notwithstanding, in the event the Executive resigns from his employment hereunder for Good Reason, the Company terminates the Executive’s employment hereunder without Cause (other than a termination by reason of death or Disability) within 60 days preceding or 12 months following a Change in Control (as defined below), or the Term expires or is not renewed due to the Company’s delivery of a notice of nonrenewal and the Executive’s employment is then terminated without Cause within 12 months following a Change in Control, then the Company shall pay or provide the Executive the Amounts and Benefits and, subject to Section 5.4.8, a severance payment as follows:

(i) subject to Section 9.10.2, an amount equal to the sum of (x) two and one quarter times the Base Salary as then in effect (without taking into account any reduction therein that constitutes a basis for Good Reason), whichever is the greater, plus (y) two and one quarter times the average of the Incentive Bonus the Executive received from the Company for all fiscal years completed during the Term, with the aggregate amount due paid in equal installments on the Company’s normal payroll dates for a period of 12 months from the Date of Termination in accordance with the normal payroll practices of the Company, with each such payment deemed to be a separate payment for the purposes of Code Section 409A (as defined below);

(ii) in the event such resignation or termination occurs following the Company’s first fiscal quarter of any year, a Pro Rata Bonus, paid in accordance with Section 2.2 (including payment timing); and

(iii) the continuation of all benefits for 24 months from the Date of Termination.

In addition, subject to Section 5.4.8, the vesting of all unvested stock options and restricted stock previously granted to the Executive shall be accelerated to the Date of Termination, and any such stock options, notwithstanding any provision to the contrary in the option or the plan pursuant to
which the option was granted, shall remain exercisable until the earlier of the first anniversary of the Date of Termination or the original expiration date of the option.

5.4.4 **Definition of Change in Control**. For purposes of this Agreement, a “**Change in Control**” shall be deemed to occur upon any of the following events, provided that such an event is a Change in Control Event within the meaning of Code Section 409A (as defined below): (a) any “**person**” as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) (other than the Company, any trustee or other fiduciary holding securities under any employee benefit plan of the Company, or any company owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of the common stock), becoming the beneficial owner (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of the Company’s then outstanding securities; (b) during any period of 12 consecutive months, the individuals who, at the beginning of such period, constitute the Board, and any new director whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the 12-month period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the Board; (c) a merger or consolidation of the Company with any other corporation or other entity, other than a merger or consolidation that would result in the voting securities of the Company outstanding immediately prior thereto (and held by persons that are not affiliates of the acquirer) continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; **provided, however,** that a merger or consolidation effected to implement a recapitalization of the
Company (or similar transaction) in which no person (other than those covered by the exceptions in clause (a) of this Section 5.4.4) acquires more than 50% of the combined voting power of the Company’s then outstanding securities shall not constitute a Change in Control; or (d) the consummation of a sale or other disposition by the Company of all or substantially all of the Company’s assets, including a liquidation, other than the sale or other disposition of all or substantially all of the assets of the Company to a person or persons who beneficially own, directly or indirectly, more than 50% of the combined voting power of the outstanding voting securities of the Company immediately prior to the time of the sale or other disposition.

5.4.5 Termination upon Death. In the event of the Executive’s death, the Company shall pay or provide to the Executive’s estate: (i) the Amounts and Benefits and (ii) a Pro Rata Bonus, paid in accordance with Section 2.2. In addition, (A) all of the then remaining unvested restricted stock previously granted to the Executive shall immediately become vested on the Date of Termination and shall be distributed to the Executive’s estate within 60 days of the Date of Termination and (B) the portion of the unvested stock options previously granted to the Executive that are scheduled to vest in the calendar year of the Executive’s death shall immediately become vested on the certification of the Compensation Committee based on the achievement of the performance goals for such year, calculated through the Date of Termination, and shall be distributed to the Executive’s estate 60 days after the Date of Termination. After giving effect to the foregoing, any portion of the stock options that remain unvested on the certification following the Executive’s death shall be forfeited.

5.4.6 Termination upon Disability. In the event the Company terminates the Executive’s employment hereunder for reason of Disability, the Company shall pay or provide to the Executive: (i) the Amounts and Benefits, (ii) a Pro Rata Bonus, paid in accordance with Section 2.2, and (iii) medical benefits for six months. In addition, subject to Section 5.4.8, (A) 50% of the unvested restricted stock previously granted to the Executive shall immediately become vested on the Date of
Termination and shall be distributed to the Executive as provided in, and subject to, Sections 5.4.8 and 9.9.2 and (B) the portion of any unvested stock options previously granted to the Executive that are scheduled to vest in the calendar year the Date of Termination occurs shall immediately become vested on the certification of the Compensation Committee based on the achievement of the performance goals for such year, calculated through the Date of Termination, and shall be distributed to the Executive as provided in, and subject to, Sections 5.4.8 and 9.9.2. After giving effect to the foregoing, any portion of any restricted shares and stock options that remain unvested on the certification following the Date of Termination shall be forfeited as of the Date of Termination.

5.4.7 No Mitigation or Offset. The Executive shall not be required to mitigate the amount of any payment provided for in this Section 5.4 by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Section 5.4 be reduced by any compensation earned by the Executive as the result of employment by another employer or business or by profits earned by the Executive from any other source at any time before and after the Date of Termination.

5.4.8 Release. Notwithstanding any provision to the contrary in this Agreement, the Company’s obligation to pay or provide the Executive with the payments and benefits under Sections 5.4.2 and 5.4.3 (other than the Amounts and Benefits), and any distributions with respect to the restricted stock and stock options under Sections 5.4.2, 5.4.3 and 5.4.6, shall be conditioned on the Executive’s execution and failure to revoke a waiver and general release in a form generally consistent with Exhibit A hereto (subject to such changes as may be necessary at the time of execution in order to make such release enforceable) (the “Release”). The Company shall provide the Release to the Executive within seven days following the applicable Date of Termination. In order to receive the payments and benefits under Sections 5.4.2 and 5.4.3 (other than the Amounts and Benefits) and the distributions with respect to the restricted stock and stock options under Sections 5.4.2, 5.4.3 and 5.4.6, the Executive will be required to execute and deliver the Release.
within 21 days after the date it is provided to him and not to revoke it within seven days following such execution and delivery. Notwithstanding anything to the contrary contained herein, (i) all payments delayed pursuant to this Section, except to the extent delayed pursuant to Section 9.10.2, shall be paid to the Executive in a lump sum on the first Company payroll date on or following the 60th day after the Date of Termination, and any remaining payments due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein, with each such payment deemed to be a separate and distinct payment for the purposes of Code Section 409A (as defined below) and (ii) all distributions with respect to the restricted stock and stock options delayed pursuant to this Section, except to the extent delayed pursuant to Section 9.10.2, shall be distributed to the Executive on the 60th day after the Date of Termination.

6. **INSURABILITY; RIGHT TO INSURE**

The Company shall have the right to maintain key man life insurance in its own name covering the Executive’s life in an amount of up to $50,000,000.00. The Executive shall fully cooperate in the procuring of such insurance, including submitting to any required medical examination and by completing, executing and delivering such applications and other instrument in writing as may be reasonably required by any insurance company to which application for insurance may be made by the Company.

7. **CONFIDENTIALITY; NON-SOLICITATION; NON- DISPARAGEMENT; COOPERATION**

7.1 **Confidential Information.** The Company and the Executive acknowledge that the services to be performed by the Executive under this Agreement are unique and extraordinary and, as a result of such employment, the Executive shall be in possession of Confidential Information (as defined below) relating to the business practices of the Company and its subsidiaries and affiliates (collectively, the “**Company Group**”). The term “**Confidential Information**” shall mean any and all information (oral and written)
relating to the Company Group, or any of their respective activities, or of the clients, customers or business practices of the Company Group, other than such information which (i) is generally available to the public or within the relevant trade or industry, other than as the result of breach of the provisions of this Section 7.1, or (ii) the Executive is required to disclose under any applicable laws, regulations or directives of any government agency, tribunal or authority having jurisdiction in the matter or under subpoena or other process of law. Confidential Information includes, but is not limited to, information that the Executive creates, develops, derives, obtains, makes known, or learns about which has commercial value in the business in which the Company Group is involved and which is treated by the Company Group as confidential, such as trade secrets, ideas, processes, formulas, compounds, compositions, research and clinical data, know-how, discoveries, developments, designs, innovations, plans, strategies, pricing, costs, financial information, employee information, forecasts and current and prospective customer and supplier lists. The Executive shall not, during the Term or at any time thereafter, except as may be required in the course of the performance of his duties hereunder (including pursuant to Section 7.5 below) and except with respect to any litigation or arbitration involving this Agreement, including the enforcement hereof, directly or indirectly, use, communicate, disclose or disseminate to any person, firm or corporation any Confidential Information acquired by the Executive during, or as a result of, his employment with the Company, without the prior written consent of the Company. Without limiting the foregoing, the Executive understands that the Executive shall be prohibited from misappropriating any trade secret of the Company Group or of the clients or customers of the Company Group acquired by the Executive during, or as a result of, his employment with the Company, at any time during or after the Term.

7.2 Return of Property. Upon the termination of the Executive’s employment for any reason all Company Group property that is in the possession of the Executive, including all documents, records, drug formulations, notebooks, equipment, price lists, specifications, programs, customer and prospective customer lists and other materials that contain Confidential Information that are in the possession of the Executive,
including all copies thereof, shall be promptly returned to the Company. Anything to the contrary herein notwithstanding, the Executive shall be entitled to retain (i) papers and other materials of a personal nature, including photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he reasonably believes may be needed for tax purposes and (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company.

7.3 **Prohibition on Use of Confidential Information to Solicit Customers and Prospects.** During the Executive’s employment, the Executive shall not engage in any other employment or activity that might materially interfere with or be in direct competition with the interests of the Company Group. Furthermore, the Executive shall not, except in the furtherance of the Executive’s duties hereunder, directly or indirectly, individually or on behalf of any other person, firm, corporation or other entity, (i) during the Term (except in the good faith performance of his duties) and for a period of 24 months thereafter, solicit, aid or induce any employee, representative or agent of the Company to leave such employment or retention or to accept employment with or render services to or with any other person, firm, corporation or other entity unaffiliated with the Company or hire or retain any such employee, representative or agent, or take any action to materially assist or aid any other person, firm, corporation or other entity in identifying, hiring or soliciting any such employee, representative or agent, (ii) during the Term (except in the good faith performance of his duties) and for a period of 12 months thereafter, solicit, aid or induce (or attempt to do any of the foregoing) directly or indirectly, any customer or prospective customer of the Company with whom the Executive in any way dealt with at any time during the last two years of his employment to purchase goods or services then sold by the Company from another person, firm, corporation or other entity or assist or aid any other persons or entity in identifying or soliciting any such customer or (iii) during the Term (except in the good faith performance of his duties) and for a period of 24 months thereafter, interfere in any manner with the relationship of the Company and any of its vendors. An employee, representative or agent shall be deemed
covered by this Section while so employed or retained by the Company and for six months thereafter. Anything to the contrary herein notwithstanding, the following shall not be deemed a violation of this Section 7.3: (a) the Executive’s responding to an unsolicited request for an employment reference regarding any former employee of the Company from such former employee, or from a third party, by providing a reference setting forth his personal views about such former employee; or (b) if an entity with which the Executive is associated hires or engages any employee of the Company, if the Executive was not, directly or indirectly, involved in hiring or identifying such person as a potential recruit or assisting in the recruitment of such employee. For purposes hereof, the Executive shall be deemed to have been involved “indirectly” in soliciting, hiring or identifying an employee only if the Executive (x) directs a third party to solicit or hire the Employee, (y) identifies an employee to a third party as a potential recruit or (z) aids, assists or participates with a third party in soliciting or hiring an employee.

7.4 Non-Disparagement. At no time during or within five years after the Term shall the Executive, directly or indirectly, disparage the Company Group or any of the Company Group’s past or present employees, directors, products or services. The Company shall advise its senior officers and the members of the Board (while serving in such capacities) not to disparage the Executive during the period. Notwithstanding the foregoing, nothing in this Section 7.4 shall prevent any person from making any truthful statement to the extent (i) necessary to rebut any untrue public statements made about him or her; (ii) necessary with respect to any litigation, arbitration or mediation involving this Agreement and the enforcement thereof; (iii) required by law or by any court, arbitrator, mediator or administrative or legislative body (including any committee thereof) with jurisdiction over such person; or (iv) made as good faith competitive statements in the ordinary course of business.

7.5 Cooperation. Upon the receipt of reasonable notice from the Company (including the Company’s outside counsel), the Executive shall, while employed by the Company and thereafter, respond and provide information with regard to matters of which the Executive has knowledge as a result of the
Executive’s employment with the Company and will provide reasonable assistance to the Company Group and its representatives in defense of any claims that may be made against the Company Group (or any member thereof), and will provide reasonable assistance to the Company Group in the prosecution of any claims that may be made by the Company Group (or any member thereof), to the extent that such claims may relate to matters related to the Executive’s period of employment with the Company (or any predecessors). Any request for such cooperation shall take into account the Executive’s personal and business commitments. The Executive shall promptly inform the Company (to the extent the Executive is legally permitted to do so) if the Executive is asked to assist in any investigation of the Company Group (or any member thereof) or their actions, regardless of whether a lawsuit or other proceeding has then been filed with respect to such investigation. If the Executive is required to provide any services pursuant to this Section 7.5 following the Term, upon presentation of appropriate documentation, the Company shall promptly reimburse the Executive for reasonable out-of-pocket travel, lodging, communication and duplication expenses incurred in connection with the performance of such services and in accordance with the Company’s expense policy for its senior officers, for reasonable legal fees to the extent the Board in good faith believes that separate legal representation is reasonably required. The Executive’s entitlement to reimbursement of such costs and expenses, including legal fees, pursuant to this Section 7.5, shall in no way affect the Executive’s rights, if any, to be indemnified and/or advanced expenses in accordance with the Company’s (or any of its subsidiaries’) corporate or other organizational documents, any applicable insurance policy, and/or in accordance with this Agreement.

7.6 Remedies and Reformation. Without intending to limit the remedies available to the Company, the Executive acknowledges that a breach of any of the covenants contained in this Section 7 may result in material and irreparable injury to the Company, or its affiliates or subsidiaries, for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of such a breach or threat the Company shall be entitled to a temporary restraining order and/or a
preliminary or permanent injunction restraining the Executive from engaging in activities prohibited by this Section 7 or such other relief as may be required specifically to enforce any of the covenants in this Section 7. If for any reason it is held that the restrictions under this Section 7 are not reasonable or that consideration therefor is inadequate, such restrictions shall be interpreted or modified to include as much of the duration and scope identified in this Section as will render such restrictions valid and enforceable.

7.7 **Violations.** In the event of any violation of the provisions of this Section 7, the Executive acknowledges and agrees that: (a) the post-termination restrictions contained in this Section 7 shall be extended by a period of time equal to the period of such violation, it being the intention of the parties hereto that the running of the applicable post-termination restriction period shall be tolled during any period of such violation; (b) any severance payable which remains unpaid or other benefits yet to be received under Sections 5.4.2 or 5.4.3 shall be forfeited by the Executive; and (c) any vested options not exercised as of the date of any violation of the provisions of this Section 7 shall be forfeited.

8. **INDEMNIFICATION; DIRECTORS’ AND OFFICERS’ LIABILITY INSURANCE**

During the Term and thereafter, the Company shall indemnify and hold harmless the Executive and his heirs and representatives as, and to the extent, provided in the Company’s by-laws. During the Term and thereafter, the Company shall also cover the Executive under the Company’s directors’ and officers’ liability insurance on the same basis as it covers other senior executive officers and directors of the Company.

9. **MISCELLANEOUS**

9.1 **Notices.** All notices or communications hereunder shall be in writing, addressed as follows (or to such other address as either party may have furnished to the other in writing by like notice):
To the Company: Impax Laboratories, Inc.

100 Somerset Corporate Blvd., Suite 3000

Bridgewater, NJ 08807

Attn: Senior Vice President, Human Resources

To the Executive, at the last address for the Executive on the books of the Company.

All such notices shall be conclusively deemed to be received and shall be effective (i) if sent by hand delivery, upon receipt, (ii) if sent by telecopy or facsimile transmission, upon confirmation of receipt by the sender of such transmission, (iii) if sent by overnight courier, one business day after being sent by overnight courier, or (iv) if sent by registered or certified mail, postage prepaid, return receipt requested, on the fifth day after the day on which such notice is mailed.

9.2 Testing; Verification. As a condition of the Executive’s employment with the Company, the Executive will be required to successfully complete a drug test, background check and credit check, the cost of which shall be paid by the Company. In addition, to comply with Department of Homeland Security, the Executive will be required to provide verification of the Executive’s identity and legal right to work in the United States and must complete a Form I-9 within the first three (3) days of the Effective Date. The Company shall notify the Executive of the identity of a clinic for drug testing that is local to the Executive, and the Executive hereby agrees to schedule an appointment with such clinic within forty-eight (48) hours of the date of this Agreement. In the event Executive fails any such tests or such verification, then this Agreement shall be void ab initio and of no further force or effect.

9.3 Severability. Each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
9.4 **Binding Effect; Benefits.** Executive may not delegate his duties or assign his rights hereunder. No rights or obligations of the Company under this Agreement may be assigned or transferred by the Company other than pursuant to a merger or consolidation in which the Company is not the continuing entity, or a sale, liquidation or other disposition of all or substantially all of the assets of the Company, provided that the assignee or transferee is the successor to all or substantially all of the assets or businesses of the Company and assumes the liabilities, obligations and duties of the Company under this Agreement, either contractually or by operation of law. The Company further agrees that, in the event of any disposition of its business and assets described in the preceding sentence, it shall use its best efforts to cause such assignee or transferee expressly to assume the liabilities, obligations and duties of the Company hereunder. For the purposes of this Agreement, the term “**Company**” shall include the Company and, subject to the foregoing, any of its successors and assigns. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

9.5 **Modification of Termination Benefits.** In the event that Institutional Shareholder Services or a proxy advisory firm of similar stature recommends that stockholders do not vote in favor of the election of any of the Company’s Directors because of any provision of Section 5 of this Agreement, the Executive shall, upon request of the Company, enter into an amendment of this Agreement modifying or eliminating such provision to the extent necessary to cause withdrawal of such recommendation.

9.6 **Entire Agreement.** This Agreement, including the Exhibits hereto, represent the entire agreement of the parties with respect to the subject matter hereof and shall supersede any and all previous contracts, arrangements, proposed terms or understandings between the Company and the Executive. This Agreement (including any of the Exhibits hereto) may be amended, modified or replaced at any time by mutual written agreement of the parties hereto. In the case of any conflict between any express term of this Agreement and any statement contained in any plan, program, arrangement, employment manual, memorandum or rule of general applicability of the Company, this Agreement shall control.
9.7 **Withholding.** The payment of any amount pursuant to this Agreement shall be subject to applicable withholding and payroll taxes, and such other deductions as may be required by applicable law.

9.8 **Governing Law.** This Agreement and the performance of the parties hereunder shall be governed by the internal laws (and not the law of conflicts) of the State of Delaware.

9.9 **Arbitration.** Any dispute or controversy including but not limited to statutory discrimination claims and claim involving a class, arising under or in connection with this Agreement or the Executive’s employment with the Company, other than injunctive relief under Section 7.6 hereof, shall be settled exclusively by arbitration, conducted before a single arbitrator in Delaware (applying Delaware law) in accordance with the Commercial Arbitration Rules and Procedures of the American Arbitration Association then in effect. The decision of the arbitrator will be final and binding upon the parties hereto. Judgment may be entered on the arbitrator’s award in any court having jurisdiction. The parties acknowledge and agree that in connection with any such arbitration and regardless of outcome (a) each party shall pay all its own costs and expenses, including without limitation its own legal fees and expenses, and (b) joint expenses shall be borne equally among the parties. EACH PARTY WAIVES RIGHT TO TRIAL BY JURY.

9.10 **Section 409A of the Code.**

9.10.1 **General.** It is intended that the provisions of this Agreement comply with Section 409A of the Internal Revenue Code and the regulations and guidance promulgated thereunder (collectively “Code Section 409A”), and all provisions of this Agreement shall be construed in a manner consistent with the requirements for avoiding taxes or penalties under Code Section 409A. If any provision of this Agreement (or of any award of compensation, including equity compensation or benefits) would cause the Executive to incur any additional tax or interest under Code Section 409A, the Company shall, upon the specific request of the Executive, use its reasonable business efforts to in good faith reform such provision to comply with Code Section 409A; provided, that to the maximum
extent practicable, the original intent and economic benefit to the Executive and the Company of the applicable provision shall be maintained, but the Company shall have no obligation to make any change that could create any additional economic cost or loss of benefit to the Company. The Company shall timely use its reasonable business efforts to amend any plan or program in which the Executive participates to bring it in compliance with Code Section 409A. Notwithstanding the foregoing, the Company shall have no liability with regard to any failure to comply with Code Section 409A so long as it has acted in good faith with regard to compliance therewith.

9.10.2 Separation from Service; Six-Month Delay. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination is also a “Separation from Service” within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a “resignation,” “termination,” “termination of employment” or like terms shall mean Separation from Service. If the Executive is deemed on the Date of Termination to be a “specified employee,” within the meaning of that term under Section (a)(2)(B) of Code Section 409A (“Code Section 409(a)(2)(B)” ) and using the identification methodology selected by the Company from time to time, or if none, the default methodology, then with regard to any payment, the providing of any benefit or any distribution of equity made subject to this Section 9.10.2, to the extent required to be delayed in compliance with Code Section 409A(a)(2)(B), and any other payment, the provision of any other benefit or any other distribution of equity that is required to be delayed in compliance with Code Section 409A(a)(2)(B), such payment, benefit or distribution shall not be made or provided prior to the earlier of (i) the expiration of the six-month period measured from the date of the Executive’s Separation from Service or (ii) the date of the Executive’s death. On the first day of the seventh month following the date of Executive’s Separation from Service or, if earlier, on the date of his death, (x) all payments delayed pursuant to this Section

26
9.10.2 (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein and (y) all distributions of equity delayed pursuant to this Section 9.109.2 shall be made to the Executive. In addition to the foregoing, to the extent required by Code Section 409A(a)(2)(B), prior to the occurrence of both a Disability termination as provided in Section 5.1.2 hereof and the Executive’s becoming “disabled” under Code Section 409A, the payment of any compensation to the Executive under this Agreement shall be suspended for a period of six months commencing at such time that the Executive shall be deemed to have had a Separation from Service because either (A) a sick leave ceases to be a bona fide sick leave of absence, or (B) the permitted time period for a sick leave of absence expires (an “SFS Disability”), without regard to whether such SFS Disability actually results in a Disability termination. Promptly following the expiration of such six-month period, all compensation suspended pursuant to the foregoing sentence (whether it would have otherwise been payable in a single sum or in installments in the absence of such suspension) shall be paid or reimbursed to the Executive in a lump sum. On any delayed payment date under this Section 9.10.2, there shall be paid to the Executive or, if the Executive has died, to his estate, in a single cash lump sum together with the payment of such delayed payment, interest on the aggregate amount of such delayed payment at the Delayed Payment Interest Rate (as defined below) computed from the date on which such delayed payment otherwise would have been made to the Executive until the date paid. For purposes of the foregoing, the “Delayed Payment Interest Rate” shall mean the prime interest rate as reported in *The Wall Street Journal* as of the business day immediately preceding the payment date for the applicable delayed payment.
9.10.3 **Expense Reimbursement.** With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Code Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, provided that the foregoing clause (ii) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Internal Revenue Code and the regulations and guidance promulgated thereunder solely because such expenses are subject to a limit related to the period the arrangement is in effect and (iii) such payments shall be made on or before the last day of the Executive’s taxable year following the taxable year in which the expense was incurred.

9.11 **Survivorship.** Except as otherwise expressly set forth in this Agreement, upon the expiration of the Term, the respective rights and obligations of the parties shall survive such expiration to the extent necessary to carry out the intentions of the parties as embodied in this Agreement. This Agreement shall continue in effect until there are no further rights or obligations of the parties outstanding hereunder and shall not be terminated by either party without the express prior written consent of both parties.

9.12 **Counterparts.** This Agreement may be executed in counterparts (including by electronic transmission) which, when taken together, shall constitute one and the same agreement of the parties.

9.13 **Company Representations.** The Company represents and warrants to the Executive that (i) the execution, delivery and performance of this Agreement (and the agreements referred to herein) by the Company has been fully and validly authorized by all necessary corporate action, (ii) the officer or director signing this Agreement on behalf of the Company is duly authorized to do so, (iii) the execution, delivery and performance of this Agreement does not violate any applicable law, regulation, order, judgment or decree.
or any agreement, plan or corporate governance document to which the Company is a party or by which it is bound and (iv) upon execution and delivery of this Agreement by the Executive and the Company, it shall be a valid and binding obligation of the Company enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors’ rights generally.

[Signature Page Follows]
IN WITNESS WHEREOF, the Company has caused this Agreement to be duly executed and the Executive has hereunto set his hand, as of the date first set forth above.

Impax Laboratories, Inc.

By: /s/ G. Frederick Wilkinson
Name: G. Frederick Wilkinson
Title: President and Chief Executive Officer

/s/ Douglas S. Boothe
Douglas S. Boothe
EXHIBIT A

Form of General Release and Waiver

General Release and Waiver

This General Release and Waiver (this “Release”) is entered into effective as of __________, by Douglas S. Boothe (the “Executive”), on the one hand, and Impax Laboratories, Inc. and its subsidiaries and affiliates (collectively, the “Company”), on the other hand (the Executive and the Company are referred to collectively as the “Parties”). Defined terms used but not defined herein shall have the same meaning as set forth in the Employment Agreement between the Executive and the Company dated July 14, 2016 (“Employment Agreement”).

1. **Confirmation of Termination.** The Executive’s employment with the Company is terminated as of __________ (the “Termination Date”). This Release sets forth the payments, benefits, and other terms and conditions that the Company will provide to the Executive under [and serves as notice of, an election by the Company of a termination pursuant to Section 5.2 of] the Employment Agreement. If the Executive executes, delivers, and does not revoke this Release as set forth in Section 13 below, the Executive will be entitled to the payments and benefits pursuant to the terms hereof. Except as set forth in this Release, the Executive acknowledges and agrees that the Termination Date is the date of termination of his employment for all purposes, including for purposes of participation in and coverage under all benefit plans and programs sponsored by or through the Company. The Executive acknowledges and agrees that the Company shall not have any obligation to rehire the Executive, nor shall the Company have any obligation to consider him for employment after the Termination Date. The Executive acknowledges and agrees that he will not knowingly seek employment with the Company at any

A-1
time in the future, and that the Company’s refusal to employ the Executive in any future capacity will not subject the Company to liability on any grounds. In the event that the Release does not become effective pursuant to Section 13 of this Release or otherwise, then Company reserves the right to claim that the Executive’s employment was terminated pursuant to Section 5.1.5 of the Employment Agreement.

2. **Resignation.** Effective as of the Termination Date, the Executive hereby resigns as an officer of the Company and all of its subsidiaries and affiliates and from any positions held with any other entities at the direction or request of the Company. The Executive agrees to promptly execute and deliver such other documents as the Company shall reasonably request to evidence such resignations. In addition, the Executive acknowledges and agrees that the Termination Date shall be the date of his termination from all other offices, positions, trusteeships, committee memberships and fiduciary capacities held with, or on behalf of, the Company. [The Executive agrees to make himself available to assist and consult with the Company regarding matters relating to his former duties for a period of six months after his Termination Date, provided that the Executive is reimbursed for any and all reasonable expenses related to such cooperation, including but not limited to, travel, lodging, communication, and duplication expenses, and that the Executive is reimbursed for reasonable attorney fees if the Executive in good faith believes that separate legal representation is required, and that the Executive is compensated for the Executive’s time at a rate equivalent to the Executive’s most recent base salary.]

3. **Termination Benefits.** If the Executive executes and delivers this Release and does not revoke this Release within the time set forth in Section 13 below, then the Executive will be entitled, subject to the terms and conditions set forth below and in the plan documents, to the payments and benefits set forth in this Section 3 (collectively the “Termination Benefits”), which
together satisfy in full the Company’s obligations with respect to payments and benefits under the Employment Agreement or otherwise:

a. [Separation Pay: The Company shall pay the Executive $________ (representing ______ times the Executive’s Base Salary, (as defined in Section 2.1 of the Employment Agreement)), paid in equal installments on the Company’s normal payroll dates for a period of 12 consecutive months commencing from the Termination Date in accordance with the normal payroll practice of the Company, with each payment deemed to be a separate payment for purposes of IRS Code §409A. The first payment shall be made on the next normal payroll day following the Release Effective Date, as that term is defined in Section 13 below.]

b. [Separation Bonus: The Company shall pay the Executive $________ (representing ______ times the average of the Incentive Bonus (as defined in Section 2.2 of the Employment Agreement) the Executive received from the Company for all fiscal years completed during the term of the Employment Agreement), paid in equal installments on the Company’s normal payroll dates for a period of 12 consecutive months commencing from the Termination Date in accordance with the normal payroll practice of the Company, with each payment deemed to be a separate payment for purposes of IRS Code §409A. The first payment shall be made on the next normal payroll day following the Release Effective Date, as that term is defined in Section 13 below.]

c. [Pro Rata Bonus: No later than __________, the Company shall pay the Executive a pro rata portion of the Executive’s Incentive Bonus for fiscal year ______ based solely on the Company’s actual results against the Company’s goals for the year (determined by multiplying the amount of such Incentive Bonus which would be due for the full fiscal year, as determined in good faith by the Board, by a fraction, the numerator of which is the number of]
days up to the Termination Date during the fiscal year of termination that the Executive was employed by the Company and the
denominator of which is 365).]

d. Benefits

i. Medical Benefits: The Company will provide the Executive with information regarding eligibility to
continue medical, dental, and vision benefits under the Consolidated Omnibus Budget Reconciliation Act, as amended (“COBRA”),
in accordance with its terms. If the Executive timely and effectively elects under COBRA to continue medical benefit coverage after
the Termination Date under the Company Independence Blue Cross medical plan (or any successor plan) for himself or any of his
dependents currently enrolled on his plan (the “Dependents”), then the Company will pay the insurer such COBRA medical benefit
premiums for as long as the Executive and/or his Dependents remain eligible for and enrolled under COBRA for up to ___
consecutive months commencing immediately after the Termination Date. In the event the Executive or his Dependents, after timely
and effectively electing to continue such medical benefit coverage under COBRA, and after using all available COBRA, becomes
ineligible to continue such medical benefit coverage under COBRA through no fault of their own, the Executive and/or his
Dependents (but only if they would be eligible to obtain coverage under the Company Independence Blue Cross medical plan had
the Executive been employed by the Company at such time), as applicable, may be eligible to convert to an individual Independence
Blue Cross Individual Personal Choice medical plan (or any successor plan as set forth in the then applicable group medical plan
documents) at the same cost to the Executive for coverage as described under the plan documents. In such event, the Company
agrees to pay the insurer the premium for such individual plan for the period commencing from such COBRA ineligibility date and
ending on the last day of the ___-month period commencing immediately after the Termination Date.
ii. Dental Benefits: The Executive will remain eligible to continue dental benefit coverage under the Company Delta Dental dental plan (or any successor plan) for himself and his Dependents for up to 24 consecutive months commencing immediately after the Termination Date. The Company will pay the insurer for any related dental benefit premiums under such group dental plan for as long as the Executive and/or his Dependents remain enrolled in such group dental benefit plan, for up to 24 consecutive months commencing immediately after the Termination Date.

iii. Vision Benefits: The Executive will remain eligible to continue vision benefit coverage under the Company VSP vision plan (or any successor plan) for himself and his Dependents for up to 24 consecutive months commencing immediately after the Termination Date. The Company will pay the insurer for any related vision benefit premiums under such vision plan for as long as the Executive and/or his Dependents remain enrolled in such group vision benefit plan, for up to 24 consecutive months commencing immediately after the Termination Date.

iv. Payment for Benefit Continuation. If it is not possible or convenient for the Company to pay the insurer directly for any medical, dental, or vision insurance benefit coverage set forth in Sections 3(d) hereunder, then the Executive will be solely responsible for timely making such payments and the Company will reimburse the Executive within 30 days of receipt from the Executive of reasonable proof that payment has been timely received by the insurer. The Executive agrees to notify the Company promptly in writing after the Executive or his Dependents become eligible for medical, dental or vision insurance benefits under another employer’s plan, in which case any obligation by the Company under this Section 3 or otherwise to extend such benefit(s) shall cease immediately.
e. [Stock Option and Restricted Stock Awards: If the Executive executes, delivers, and does not revoke this Release within the time set forth in Section 13 below, then (i) there shall be [a 12 month acceleration of vesting] for those stock options and shares of restricted stock described in Table 1 of Exhibit A hereof and (ii) the Executive shall be entitled to exercise such stock options described in Table 1 of Exhibit A hereof until the earlier of (1) the 12 month period immediately following the Termination Date or (2) the original expiration date of the stock option. Each of these stock options and shares of restricted stock shall otherwise remain subject in all respects to the restrictions of the applicable stock option grant or restricted stock award agreements between the Executive and the Company and the applicable equity incentive plan. Except as set forth in this Section 3(e) and Exhibit A; all other stock options and shares of restricted stock held by the Executive that are unvested shall terminate and be forfeited.]

f. Subject to Section 3(e) above, any changes to the terms and conditions of the Company’s benefit plans that apply generally to employees or to the Company’s applicable equity incentive plan(s) shall also apply to the Executive and his entitlement under this Release (e.g., changes to the premiums, changes to coverage, changes in insurers, changes to the equity incentive plans, etc.).

g. Notwithstanding any other provision of this Release or the Employment Agreement, the Executive acknowledges and agrees that the Termination Benefits set forth in this Section 3 together with the Amounts and Benefits (as defined in Section 5.4.1 of the Employment Agreement), are the sole wages, payments, stock, stock options, insurance, and benefits to which the Executive is entitled, under the Employment Agreement or otherwise, and that no other wages, payments, stock, stock options, insurance, benefits or other monies of any nature are due from the Company. The Executive acknowledges and agrees that the Termination Benefits exceed any wages, payment, stock, stock options, insurance, benefit, or other thing of
value to which the Executive might otherwise be entitled under any policy, plan or procedure of the Company and/or any other agreement between the Executive and the Company.

h. All payments made to the Executive pursuant to this Section 3 shall be subject to all applicable or required deductions, taxes, and withholdings.

4. **Acknowledgement of Payments Provided.** Notwithstanding anything herein to the contrary, the Amounts and Benefits shall not be subject to the Executive’s execution of this Release. The Executive acknowledges and agrees that the Company has paid the Executive’s final wages (including any accrued, unused paid time off) and all other Amounts and Benefits in full and that the Executive has submitted and been reimbursed in full for all reasonable and necessary business expenses incurred through the Termination Date.

5. **Tax Liability.** Although the Company shall make applicable tax withholdings from the Termination Benefits and the Amounts and Benefits, the Executive acknowledges and agrees that any and all tax liability, penalties and interest (including under Code Section 409A), if any, which may become due from the Executive or assessed against the Executive because of the Termination Benefits or Amounts and Benefits, and/or any other payments or benefits referenced in this Release is the Executive’s sole responsibility, and the Executive will timely pay any taxes, penalties and interest which may become due on it. The Executive shall indemnify and hold harmless the Company from any tax, tax penalty, interest, attorneys’ fees or other costs related to the failure by the Executive to pay any tax liability assessed against the Executive, including under Code Section 409A because of the payment of the Termination Benefits, Amounts and Benefits, and/or any other payments or benefits referenced in this Release.

6. **General Release and Waiver.** In consideration of the Termination Benefits and/or any other payments or benefits referenced in this Release, and for other good and valuable
consideration, receipt of which is hereby acknowledged, the Executive for himself and for his heirs, executors, administrators, trustees, legal representatives and assigns (collectively, the “Releasors”), hereby releases, remises, and acquits the Company and its subsidiaries and affiliates and all of their respective past, present and future parent entities, subsidiaries, divisions, affiliates and related business entities, any of their successors and assigns, assets, employee benefit plans or funds, and any of their respective past and/or present directors, officers, fiduciaries, agents, trustees, administrators, managers, supervisors, shareholders, investors, employees, legal representatives, agents, counsel and assigns, whether acting on behalf of the Company or its subsidiaries or affiliates or, in their individual capacities (collectively, the “Releasees” and each a “Releasee”) from any and all claims, known or unknown, which the Releasors have or may have against any Releasee arising on or prior to the date that the Executive executes this Release and any and all liability which any such Releasee may have to the Releasors, whether denominated claims, demands, causes of action, obligations, damages or liabilities arising from any and all bases, however denominated, including but not limited to (a) any claim under the Age Discrimination in Employment Act of 1967 (“ADEA”), the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Civil Rights Act of 1964, the Civil Rights Act of 1991, Section 1981 of the Civil Rights Act of 1866, the Equal Pay Act, the Lilly Ledbetter Fair Pay Act, the Immigration Reform and Control Act of 1986, the Employee Retirement Income Security Act of 1974, (excluding claims for accrued, vested benefits under any employee benefit or pension plan of the Company, subject to the terms and conditions of such plan and applicable law), the Uniform Trade Secrets Act, the Sarbanes-Oxley Act of 2002, the Fair Labor Standards Act, the Family and Medical Leave Act, the National Labor Relations Act, the Lilly Ledbetter Fair Pay Act, the Worker Adjustment and Retraining Notification Act, the New Jersey Law Against Discrimination (which may include claims for
race, color, familial status, religious creed, ancestry, age, sex, pregnancy, national origin, or disability discrimination and harassment), New Jersey Wage Payment Laws, N.J.S.A. § 34:11-1 et seq., the New Jersey Conscientious Employee Protection Act, the New Jersey Family Leave Act, and the New Jersey Worker Health and Safety Act, all as amended; (b) any and all claims arising from or relating to the Executive’s employment relationship with Company and his service relationship as an officer or director of the Company or any of its subsidiaries or affiliates, or as a result of the termination of such relationships; (c) all claims related to the Executive’s compensation or benefits from the Company or the Releasees, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company or the Releasees; (d) all claims for breach of contract, wrongful termination and breach of the implied covenant of good faith and fair dealing; (e) all tort claims, including claims for fraud, defamation, privacy rights, emotional distress, and discharge in violation of public policy; and (f) all federal, state (including but not limited to the States of Delaware, California, New Jersey and Pennsylvania), and local statutory or constitutional claims, including claims for compensation, discrimination, harassment, whistleblower protection, retaliation, attorneys’ fees, costs, disbursements, or other claims (referred to collectively as the “Released Claims”).

This Release does not release claims that cannot be released as a matter of law, or the right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission (“EEOC”), or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company. However, by executing this Release, the Executive hereby waives the right to recover in any proceeding the Executive may bring before the EEOC or any state human rights commission or in any proceeding brought by the EEOC or any state human rights commission on the Executive’s
behalf. This Release is for any relief, no matter how denominated, including, but not limited to, injunctive relief, wages, back pay, front pay, compensatory damages, or punitive damages.

This Release shall not apply to (i) the Executive’s rights to indemnification from the Company, if any, or rights, if any, to be covered under any applicable insurance policy with respect to any liability the Executive incurred or might incur as an employee, officer or director of the Company including, without limitation, the Executive’s rights under Section 8 of the Employment Agreement; or (ii) any right the Executive may have to obtain contribution as permitted by law in the event of entry of judgment against the Executive as a result of any act or failure to act for which the Executive, on the one hand, and Company or any other Releasee, on the other hand, are jointly liable.

The Executive acknowledges that there is a risk that subsequent to the execution of this Release, the Executive may incur or suffer damage, loss or injury to persons or property that is in some way caused by or connected with the Executive’s employment or the termination thereof, but that is unknown or unanticipated at the time of the execution of this Release. The Executive does hereby specifically assume such risk and agrees that this Release shall apply to all unknown or unanticipated results of any and all matters caused by or connected with the Executive’s employment or the termination thereof, as well as those currently known or anticipated.

The Executive hereby expressly waives any rights the Executive may have under any statutes or common law principles which limit the ability of a party to release another party from claims, where the releasing party does not know of the existence of such claims or grounds for such claims, or does not suspect that such claims or grounds for such claims may exist or arise, at the time the release is executed.
7. **Continuing Covenants.** Notwithstanding any other provisions of this Release, the Executive acknowledges and agrees that he remains subject to the provisions of Section 7 of the Employment Agreement and the Employee Invention and Proprietary Information Agreement (“Invention Agreement”), both of which shall remain in full force and effect for the periods set forth therein and are deemed part of this Release. The Executive acknowledges and agrees that he has made a diligent search for any Company property in his possession or control and that he has returned all such property to the Company. The Executive acknowledges and agrees that any action for injunctive relief brought for claims arising out of Section 7 of the Employment Agreement or the Invention Agreement, as well as any related claims for trade secret misappropriation, breach of fiduciary duty, unfair competition, or other related business tort claims, shall be brought exclusively in Delaware state court or Delaware federal court. The Executive shall submit to and accept the exclusive jurisdiction of such suit, legal action, or proceeding in Delaware state court or Delaware federal court. The Executive acknowledges and agrees to accept personal jurisdiction in Delaware and also acknowledges and agrees not to challenge the mandatory Delaware forum on any grounds whatsoever, including lack of jurisdiction or *forum non-conveniens*.

8. **No Claims.** The Executive acknowledges and agrees that there are no claims or actions currently filed or pending relating to the subject matter of the Release, the Employment Agreement, or any Released Claims. The Executive acknowledges and agrees that the Executive will not file or permit to be filed on the Executive’s behalf any such claims or actions. The Executive hereby requests all administrative agencies having jurisdiction over employment and labor law matters and courts to honor the Executive’s release of claims under this Release. Should the Company ever request the Executive to execute any administrative dismissal forms, the Executive shall immediately execute the form and return it to the Company. Should the
Executive file any claim or action relating to the subject matter of this Release, the Employment Agreement, or any Released Claims, such filing shall be considered an intentional breach of the Release and the Executive will be subject, among other rights Company may have, to all damages and costs available under law and equity, including without limitation, the amount of consideration paid hereunder. The Executive further acknowledges and agrees that the Executive has not failed to report any work-related occupational injuries or diseases arising out of or in the course of employment with the Company.

9. **No Admission.** This Release does not constitute an admission of liability or wrongdoing of any kind by the Company or any other Releasee. This Release is not intended, and shall not be construed, as an admission that any Releasee has violated any federal, state or local law (statutory or decisional), ordinance or regulation, breached any contract or committed any wrong whatsoever against any Releasor.

10. **Heirs and Assigns.** The terms of this Release shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns.

11. **Miscellaneous.** This Release will be construed and enforced in accordance with the laws of the State of Delaware without regard to the principles of conflicts of law. If any provision of this Release is held by a court of competent jurisdiction to be illegal, void or unenforceable, such provision shall have no effect; however, the remaining provisions will be enforced to the maximum extent possible. The parties acknowledge and agree that, except as otherwise set forth herein, this Release constitutes the entire agreement and complete understanding of the parties with regard to the matters set forth herein and, except as otherwise set forth in this Release, supersedes any and all agreements (including without limitation the Employment Agreement), understandings, and discussions, whether written or oral, between the parties. No other promises
or agreements are binding unless in writing and signed by each of the Parties after the Release Effective Date. Should any provision of this Release require interpretation or construction, it is agreed by the Parties that the entity interpreting or constructing this Release shall not apply a presumption against one party by reason of the rule of construction that a document is to be construed more strictly against the Party who prepared the document. The Parties agree to bear their own attorneys’ fees and costs with respect to this Release.

12. [**Knowing and Voluntary Waiver.** The Executive acknowledges and agrees that he: (a) has carefully read this Release in its entirety; (b) has had an opportunity to consider it for at least 21 calendar days; (c) is hereby advised by the Company in writing to consult with an attorney of his choosing in connection with this Release; (d) fully understands the significance of all of the terms and conditions of this Release and has discussed them with his independent legal counsel, or had a reasonable opportunity to do so; (e) has had answered to his satisfaction any questions he has asked with regard to the meaning and significance of any of the provisions of this Release and has not relied on any statements or explanations made by any Releasee or their counsel; (f) understands that he has seven calendar days in which to revoke this Release (as described in Section 13) after signing it and (g) is signing this Release voluntarily and of his own free will and agrees to abide by all the terms and conditions contained herein.]

13. [**Effective Time of Release.** The Executive may accept this Release by signing it and delivering it to the Company as provided in Section 15 of this Release within 21 days of his receipt hereof. After executing this Release, the Executive will have seven calendar days (the “Revocation Period”) to revoke this Release by indicating his desire to do so in writing delivered to the Company as provided in Section 15 of this Release by no later than 12:00 p.m. EST on the seventh calendar day following the date on which he executes and delivers this Release. The effective date of this Release shall be the eighth day after the Executive executes and delivers]
this Release (the “Release Effective Date”). If the last day of the Revocation Period falls on a Saturday, Sunday or holiday, the last day of the Revocation Period will be deemed to be the next business day. If the Executive does not execute this Release or exercises his right to revoke hereunder, he shall forfeit his right to receive any of the Termination Benefits set forth in Section 3 above and any other payments or benefits referenced in this Release with the sole exception of the Amounts and Benefits, and to the extent such Termination Benefits have already been provided, the Executive agrees that he will immediately reimburse the Company for the amounts of such payment.]

14. **Confidentiality.** The provisions of this Release shall be held in strictest confidence by the Executive. The Executive shall not publicize or disclose it in any manner whatsoever; provided, however, that the Executive may disclose this Release in confidence to his immediate family, attorney, accountant, tax preparer, and financial advisor and the Executive may also disclose this Release insofar as such disclosure may be necessary to enforce its terms or as otherwise required by law. Notwithstanding anything herein to the contrary, in the event of a breach of this Section 14, the Company’s remedies shall be injunctive relief and all damages caused proximately by such breach. In any legal action (including arbitration) the prevailing party shall be entitled to reasonable attorney’s fees. The Company may at its option withhold payments otherwise due under this Release (with the sole exception of the Amounts and Benefits) pending the resolution of any legal action (including arbitration) in which the breach of this Section 14 is being disputed. Ultimately, however, the remedies for a breach hereunder shall be limited as provided in this Section.

15. **Notices.** All notices or communications hereunder shall be in writing, and shall be addressed and delivered as follows (or to such other address as either Party may have furnished to the other in writing by like notice): (a) To the Company: Impax Laboratories, Inc., 100 A-14

SV:1807016.4
16. Breach of Release. Excluding the Executive’s duty of confidentiality, the breach of which shall be exclusively governed by Section 14 hereof, if the Executive violates any of his obligations under this Release, then the Company may at its option terminate the Executive’s rights to any and all Termination Benefits under Section 3 or any other payments or benefits referenced in this Release (with the sole exception of the Amounts and Benefits); provided, however, the Company may, in addition to any other rights it may have and in accordance with applicable law, demand a monetary payment equal to all Termination Benefits and other payments and benefits received by the Executive or any other payments or benefits referenced in this Release (with the sole exception of the Amounts and Benefits) and the Executive agrees to make such payment promptly upon such demand. In the event that the Company alleges that the Executive breached the Release, the prevailing party will be entitled to reasonable attorney fees.

17. Dispute Resolution. Except as otherwise set forth herein, the Parties hereby agree that any and all claims, disputes, demands, or controversies of any nature whatsoever arising out of, or relating to, this Release, or its interpretation, enforcement, breach, performance or execution,
the Executive’s employment with the Company, or the termination of such employment, including but not limited to any statutory claims, shall be resolved, to the fullest extent permitted by law, by final, binding and confidential arbitration in Delaware (applying Delaware law) in accordance with the Commercial Arbitration Rules and Procedures of the American Arbitration Association then in effect. The decision of the arbitrator will be final and binding upon the parties thereto. Judgment may be entered on the arbitrator’s award in any court having jurisdiction. The Parties acknowledge and agree that in connection with any such arbitration and regardless of outcome: (a) each party shall bear its own costs and expenses, including without limitation its own legal fees and expenses, and (b) joint expenses shall be born equally among the parties. EACH PARTY WAIVES ITS RIGHT TO TRIAL BY JURY. Nothing in this Release is intended to prevent either the Executive or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any arbitration, including but not limited to injunctive relief sought pursuant to Section 7 of this Release.

[Signature Page Follows]
EXHIBIT A

[Equity Awards]

A-1
RESTATEMENT AGREEMENT TO CREDIT AGREEMENT

RESTATEMENT AGREEMENT, dated as of August 3, 2016 (this “Agreement”), by and among IMPAX LABORATORIES, INC. (the “Borrower”), the Guarantors, Royal Bank of Canada (“Royal Bank”), as administrative agent for the Lenders (in such capacity, the “Administrative Agent”), each Person party hereto providing a New Term Loan Commitment (as defined below) (each, a “Term Lender”), each Person party hereto providing a New Revolving Commitment (as defined below) (each, a “Revolving Lender”), each other Lender party hereto and Royal Bank in its respective capacities as Issuing Bank and Swing Line Lender.

PRELIMINARY STATEMENTS:

WHEREAS, reference is hereby made to the Credit Agreement, dated as of August 4, 2015 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among the Borrower, the Administrative Agent, the Collateral Agent and the Lenders party thereto;

WHEREAS, the Borrower has requested (a) Term Loan Commitments in an aggregate principal amount of $400,000,000 (the “New Term Loan Commitments” and the loans under the New Term Loan Commitments, the “New Term Loans”), which will be available on the Restatement Effective Date (as defined below), and such New Term Loan Commitments shall constitute Term Loan Commitments under the Credit Agreement and such New Term Loans shall constitute Term Loans under the Credit Agreement and (b) an extension of the Maturity Date in respect of the Revolving Commitments and an increase in the aggregate principal amount of the Revolving Commitments to $200,000,000 (the “New Revolving Commitments” and, together with the New Term Loan Commitments, the “New Commitments”), which will be available on the Restatement Effective Date, and such New Revolving Commitments shall constitute Revolving Commitments under the Credit Agreement;

WHEREAS, Section 11.01 of the Credit Agreement provides that the Credit Agreement and the other Loan Documents may be amended by the Borrower and the Required Lenders and the Lenders party thereto;

NOW, THEREFORE, in consideration of the premises and agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

SECTION 1. Amendment and Restatement of Credit Agreement.

(a) The Credit Agreement, including all schedules and exhibits thereto, is hereby amended and restated in its entirety as of the Restatement Effective Date in the form attached as Exhibit I hereto.
Upon and as of the Restatement Effective Date, each Lender party hereto (including the Term Lenders and the New Revolving Lenders) and the Administrative Agent hereby consents to the Amended and Restated Credit Agreement and ratifies and confirms the Amended and Restated Credit Agreement in all respects without any further action on the part of any Lender or the Administrative Agent and the New Term Loans shall automatically and without further action by any Person constitute Term Loans for all purposes of the Credit Agreement and the other Loan Documents on the terms and conditions set forth in the Amended and Restated Credit Agreement, and the Amended and Restated Credit Agreement made hereby shall be effective.

SECTION 2. New Commitments. (a) Each Term Lender party hereto hereby acknowledges and agrees that it has a New Term Loan Commitment in the amount set forth opposite such Term Lender’s name on Schedule 2.01 to this Agreement and agrees to make New Term Loans on the Restatement Effective Date in accordance with Section 2.01(1) of the Amended and Restated Credit Agreement.

(b) each Revolving Lender party hereto hereby acknowledges and agrees that it has a New Revolving Commitment in the amount set forth opposite such Revolving Lender’s name on Schedule 2.01 to this Agreement and agrees to make New Revolving Commitments available on the Restatement Effective Date in accordance with Section 2.02 of the Amended and Restated Credit Agreement. From and after the Restatement Effective Date, (a) each Term Lender and Revolving Lender party hereto shall be a Lender for all purposes under the Amended and Restated Credit Agreement and the other Loan Documents, (b) the New Term Loan Commitment and new Term Loan of each Term Lender party hereto shall be a Term Loan Commitment and a Term Loan, respectively, for all purposes under the Credit Agreement and the other Loan Documents.

SECTION 3. New Revolving Commitments. (a) With respect to the Revolving Commitments, each Lender party hereto with a Revolving Commitment immediately prior to the effectiveness of the New Revolving Commitments (each, an “Existing Revolving Lender”) will automatically and without further act be deemed to have assigned to each Revolving Lender providing a new or increased Revolving Commitment (each a “New Revolving Lender”), and each such New Revolving Lender will automatically and without further act be deemed to have assumed, a portion of such Existing Revolving Lender’s participations under the Credit Agreement in outstanding Letters of Credit and Swing Line Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (i) participations under the Amended and Restated Credit Agreement in Letters of Credit and (ii) participations under the Amended and Restated Credit Agreement in Swing Line Loans held by each Revolving Lender will equal the percentage of the aggregate Revolving Commitments of all Lenders represented by such Revolving Lender's Revolving Commitments;

(b) if, upon the effectiveness of the New Revolving Commitments, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of the New Revolving Commitments be prepaid from the proceeds of new Revolving Loans made under the Amended and Restated Credit Agreement (reflecting the increase in and reallocation of Revolving Commitments effected hereby), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 3.05 of the Amended and Restated Credit Agreement;

(c) if the Revolving Loans made under Section 3(b) above are initially funded as Eurodollar Rate Loans, on the Restatement Effective Date there shall commence an initial Interest Period with respect to such Revolving Loans that shall end on the last day of the Interest Period.
applicable to the existing Revolving Loans as in effect immediately prior to the Restatement Effective Date;

(d) the Administrative Agent and the Lenders hereby agree that the minimum borrowing and prepayment requirements in Section 2.02 of the Credit Agreement and the Amended and Restated Credit Agreement shall not apply to the transactions effected pursuant to this Section 3;

(c) the Issuing Bank and Swing Line Lender each hereby consent to the Revolving Lenders; and

(f) the Administrative Agent shall take any and all action as may be reasonably necessary to effect the provisions of this Section 3, including the increase in Revolving Commitments established hereby and the pro rata reallocation of commitments, participations and loans in respect thereof.

SECTION 4. Conditions to Effectiveness. The Amended and Restated Credit Agreement, the obligation of the Term Lenders to fund New Term Loans under their respective New Term Loan Commitments and the obligation of the Revolving Lenders to make their respective New Revolving Commitments available shall in each case become effective on the first date (the “Restatement Effective Date”) when, and only when, each of the applicable conditions set forth below have been satisfied (or waived) in accordance with the terms herein:

(a) this Agreement shall have been executed and delivered by the Borrower, each Guarantor, Lenders under the Credit Agreement representing the Required Lenders, Term Lenders representing 100% of the New Term Loan Commitments, Revolving Lenders representing 100% of the Revolving Commitments, the Administrative Agent, the Issuing Bank and the Swing Line Lender;

(b) with respect to the New Term Loans, the Administrative Agent shall have received a Committed Loan Notice in accordance with the provisions of the Amended and Restated Credit Agreement;

(c) (i) there shall not have been a “Material Adverse Effect” (as defined in the Allergan Acquisition Agreement) and (ii) there shall not have been a “Material Adverse Effect” (as defined in the Teva Acquisition Agreement);

(d) (i) each Argentum Acquisition shall have been, or shall substantially concurrently with the funding of the New Term Loans and effectiveness of the New Revolving Commitments shall be, consummated substantially in accordance with the terms of the Argentum Acquisition Agreements and (ii) neither Argentum Acquisition Agreement shall have been amended or waived (including any consent granted thereunder) in any material respect by the Borrower in a manner that is materially adverse to the Term Lenders or the Revolving Lenders in their capacities as such, unless consented to by the Lead Arrangers (such consent shall not be unreasonably withheld, conditioned or delayed), it being understood that (A) a reduction in the purchase price under an Argentum Acquisition Agreement will be deemed not to be materially adverse to the Term Lenders or the Revolving Lenders and will be allocated dollar for dollar to reductions in the New Term Loans and (B) each of the following will be deemed to be materially adverse to the Commitment Parties: (x) any change in the definition of “Material Adverse Effect” contained in either Argentum Acquisition Agreement and (y) any waiver of the condition precedent set forth in Section 10.2(c) of either Argentum Acquisition Agreement (regarding the
(e) as of the Restatement Effective Date, immediately before and after giving effect to this Agreement, the funding of the New Term Loans, the effectiveness of the New Revolving Commitments and the consummation of the other Argentum Transactions, (i) no Specified Event of Default shall have occurred and be continuing or would exist immediately after giving effect thereto, (ii) the Specified Representations are true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties are true and correct in all respects) and (iii) the Argentum Acquisition Representations are true and correct in all material respects;

(f) the Administrative Agent shall have received certification as to the solvency of the Borrower and its Subsidiaries (on a consolidated basis, after giving effect to the Argentum Transactions and the incurrence of indebtedness related thereto) from the chief financial officer or other officer with equivalent duties of the Borrower, substantially in the form attached hereto as Exhibit II;

(g) the Administrative Agent shall have received a certificate dated as of the Restatement Effective Date and executed by a Responsible Officer of the Borrower as to the matters set forth in Sections 4(c), (d) and (e) above;

(h) the Administrative Agent shall have received (i) certificates of good standing (to the extent applicable) from the secretary of state (or such other office) of the state of the jurisdiction of organization of each Loan Party and (ii) customary certificates of resolutions or other action, incumbency certificates or other certificates of Responsible Officers of each such Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Restatement Effective Date;

(i) the Administrative Agent shall have received an opinion from (i) Sullivan & Cromwell LLP, special counsel to the Loan Parties and (ii) LeClairRyan, special New Jersey counsel to the Loan Parties, in each case covering such customary matters as the Administrative Agent shall reasonably request;

(j) all actions shall have been taken as the Administrative Agent shall have reasonably requested to ensure that the Obligations, including the New Term Loans and extensions of credit under the New Revolving Commitments, shall have a perfected first-priority security interest in the Collateral of the type and priority described in each applicable Collateral Document and to terminate and discharge any security interests or guarantees in respect of the assets acquired as part of the Argentum Transactions, if applicable, in proper form for filing; provided that to the extent any security interest in the intended Collateral (other than any Collateral the security interest in which may be perfected by the filing of a UCC financing statement, the filing of short-form security agreements with the United States Patent and Trademark Office or the United States Copyright Office or the delivery of certificates evidencing equity interests of wholly-owned material domestic subsidiaries (and related stock powers)) is not provided on the Restatement Effective Date after the Borrower’s use of commercially reasonable efforts to do so, the provision of such perfected security interest(s) shall not constitute a condition precedent to the availability of the New Term Loans on the Restatement Effective Date but shall
be required to be delivered pursuant to Section 6.11 and 6.12 of the Amended and Restated Credit Agreement as if references therein to sixty (60) days were in each case to ninety (90) days;

(k) after giving effect to the Argentum Transactions, the Borrower and its Subsidiaries, including, for the avoidance of doubt, the assets acquired as part of the Argentum Transactions, shall have outstanding no Indebtedness or Disqualified Equity Interests other than (a) the New Term Loans and other extensions of credit under the Amended and Restated Credit Agreement, (b) the Convertible Notes and (c) other Indebtedness outstanding on the date hereof permitted under the Amended and Restated Credit Agreement;

(l) the Borrower and each of the Guarantors shall have provided, at least three (3) business days prior to the Restatement Effective Date, the documentation and other information to the Administrative Agent (with respect to the Borrower and each of the Guarantors) that are required by regulatory authorities under applicable “know-your-customer” rules and regulations, including the USA PATRIOT Act, to the extent requested at least ten (10) Business Days prior to the Restatement Effective Date; and

(m) all fees and expenses required to be paid hereunder on the Restatement Effective Date, in the case of expenses and legal fees to the extent invoiced in reasonable detail at least two (2) Business Days before the Restatement Effective Date (except as otherwise reasonably agreed by the Borrower), shall have been paid in full in cash.

SECTION 5. Expenses. The Borrower hereby reconfirms its obligations pursuant to Section 11.04 of the Credit Agreement to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent in connection with this Agreement.

SECTION 6. Reaffirmation of the Loan Parties. Each Loan Party hereby consents to the Amended and Restated Credit Agreement effected hereby and confirms and agrees that, notwithstanding the effectiveness of this Agreement, each Loan Document to which such Loan Party is a party is, and the obligations of such Loan Party contained in the Credit Agreement, this Agreement or in any other Loan Document to which it is a party are, and shall continue to be, in full force and effect and are hereby ratified and confirmed in all respects, in each case as amended by this Agreement. For greater certainty and without limiting the foregoing, each Loan Party hereby confirms that the existing security interests granted by such Loan Party in favor of the Secured Parties pursuant to the Loan Documents in the Collateral described therein shall continue to secure the obligations of the Loan Parties, including the New Term Loans, under the Credit Agreement and the other Loan Documents as and to the extent provided in the Loan Documents. Each Lender, by delivering its signature page to this Agreement and making available its New Term Loans or New Revolving Commitments on the Restatement Effective Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Restatement Effective Date.

SECTION 7. Amendment, Modification and Waiver. This Agreement may not be amended, modified or waived except in accordance with Section 11.01 of the Amended and Restated Credit Agreement.

SECTION 8. Entire Agreement. This Agreement, the Amended and Restated Credit Agreement and the other Loan Documents constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and supersede all other prior agreements and understandings, both written and verbal, among the parties hereto with respect to the subject matter hereof. Except as expressly set forth herein, this Agreement shall not by implication or otherwise limit,
impair, constitute a waiver of, or otherwise affect the rights and remedies of any party under, the Credit Agreement, nor alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement, all of which are ratified and affirmed in all respects and shall continue in full force and effect. It is understood and agreed that each reference in each Loan Document to the Credit Agreement, whether direct or indirect, shall hereafter be deemed to be a reference to the Amended and Restated Credit Agreement attached hereto and that this Agreement is a Loan Document. This Agreement shall not constitute a novation of any amount owing under the Credit Agreement and all amounts owing in respect of principal, interest, fees and other amounts pursuant to the Credit Agreement and the other Loan Documents shall, to the extent not paid or exchanged on or prior to the Restatement Effective Date, continue to be owing under the Amended and Restated Credit Agreement or such other Loan Documents until paid in accordance therewith.

SECTION 9. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. SECTIONS 11.15 AND 11.16 OF THE AMENDED AND RESTATED CREDIT AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE INTO THIS AGREEMENT MUTATIS MUTANDIS AND SHALL APPLY HERETO.

SECTION 10. Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein, to the fullest extent permitted by applicable law, shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions

SECTION 11. Counterparts. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission or other customary means of electronic transmission (e.g., “pdf”) shall be as effective as delivery of a manually signed counterpart of this Agreement.

[Remainder of Page Intentionally Blank]
IN WITNESS WHEREOF, each of the undersigned has caused its duly authorized officer to execute and deliver this Agreement as of the date first written above.

IMPAX LABORATORIES, INC.
by /s/ Bryan Reasons
____________________________
Name: Bryan Reasons
Title: Senior Vice President, Finance and Chief Financial Officer

IMPAX LABORATORIES USA, LLC,
as a Guarantor
by /s/ Bryan Reasons
____________________________
Name: Bryan Reasons
Title: Chief Financial Officer

THORX LABORATORIES, INC.,
as a Guarantor
by /s/ Bryan Reasons
____________________________
Name: Bryan Reasons
Title: Chief Financial Officer

TOWER HOLDINGS, INC.,
as a Guarantor
by /s/ Bryan Reasons
____________________________
Name: Bryan Reasons
Title: Chief Financial Officer, Treasurer and Vice President

LINEAGE THERAPEUTICS INC.,
as a Guarantor
by /s/ Bryan Reasons
____________________________
Name: Bryan Reasons
Title: Chief Financial Officer, Treasurer and Vice President

Restatement Agreement – Signature Page
COREPHARMA, L.L.C.,
as a Guarantor

/s/ Bryan Reasons

by

Name: Bryan Reasons
Title: Chief Financial Officer

Mountain, LLC,
as a Guarantor

/s/ Bryan Reasons

by

Name: Bryan Reasons
Title: Chief Financial Officer

AMEDRA PHARMACEUTICALS LLC,
as a Guarantor

by /s/ Bryan Reasons

Name: Bryan Reasons
Title: Chief Financial Officer

TRAIL SERVICES, INC.,
as a Guarantor

/s/ Bryan Reasons

by

Name: Bryan Reasons
Title: Chief Financial Officer

Restatement Agreement – Signature Page
ROYAL BANK OF CANADA, as Administrative Agent,

/s/ Susan Khokher
by
Name: Susan Khokher
Title: Manager, Agency

ROYAL BANK OF CANADA, as Issuing Bank and Swing Line Lender,

/s/ Amy Promaine
by
Name: Amy Promaine
Title: Authorized Signatory

Restatement Agreement – Signature Page
ROYAL BANK OF CANADA,
as a Lender

By: /s/ Amy Promaine

Name: Amy Promaine
Title: Authorized Signatory

Restatement Agreement – Signature Page
Fifth Third Bank, 
as a Lender

By: /s/ Thomas Avery

Name: Thomas Avery
Title: Vice President

Restatement Agreement – Signature Page
The Governor and Company of the Bank of Ireland, as a Lender

By: /s/ Darragh O’Neill
   Name: Darragh O’Neill
   Title: Authorized Signatory

By: /s/ Ollie Conneely
   Name: Ollie Conneely
   Title: Authorized Signatory

Restatement Agreement – Signature Page
BANK OF THE WEST,

as a Lender

By: /s/ Francesco Ingargiola
Name: Francesco Ingargiola
Title: Director

By: /s/ Michael Weinert
Name: Michael Weinert
Title: Director

Restatement Agreement – Signature Page
Barclays Bank PLC,
as a Lender

By: /s/ Christine Aharonian
Name: Christine Aharonian
Title: Vice President

Restatement Agreement – Signature Page
BMO Harris Bank, N.A.,
as a Lender

By: /s/ Josh Hovermale
Name: Josh Hovermale
Title: Vice President

Restatement Agreement – Signature Page
BANK OF AMERICA, N.A.,
as a Lender

By: /s/ Yinghua Zhang
Name: Yinghua Zhang
Title: Director

Restatement Agreement – Signature Page
Healthcare Financial Solutions, LLC,
as a Lender

By: /s/ R. Hanes Whiteley

Name: R. Hanes Whiteley
Title: Duly Authorized Signatory

Restatement Agreement – Signature Page
DEUTSCHE BANK AG NEW YORK BRANCH,
as a Lender

By: /s/ Anca Trifan
    Name: Anca Trifan
    Title: Managing Director

By: /s/ Marcus M. Tarkington
    Name: Marcus M. Tarkington
    Title: Director
Citizens Bank, N.A.,
as a Lender

By: /s/ Michael D. Monte

Name: Michael D. Monte
Title: Director

Restatement Agreement – Signature Page
Comerica Bank,
as a Lender

By: /s/ Mark C. Skrzynski Jr.

Name: Mark C. Skrzynski Jr.
Title: Vice President

Restatement Agreement – Signature Page
CREDIT SUISSE AG, Cayman Islands Branch,
as a Lender

By: /s/ Christopher Day

Name: Christopher Day
Title: Authorized Signatory

By: /s/ Karim Rahimtoola

Name: Karim Rahimtoola
Title: Authorized Signatory

Restatement Agreement – Signature Page
DNB Capital LLC,

as a Lender

By: /s/ Nikolai Nachamkin
Name: Nikolai Nachamkin
Title: Senior Vice President

By: /s/ Cathleen Buckley
Name: Cathleen Buckley
Title: Senior Vice President

Restatement Agreement – Signature Page
FLAGSTAR BANK, FSB
as a Lender

By: /s/ Elizabeth K. Hausman

Name: Elizabeth K. Hausman
Title: First Vice President

Restatement Agreement – Signature Page
MUFG Union Bank, N.A.
as a Lender

By: /s/ Jaime Johnson
Name: Jaime Johnson
Title: Director

Restatement Agreement – Signature Page
PNC BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ Sharon Landgrat

Name: Sharon Landgrat
Title: Senior Vice President

Restatement Agreement – Signature Page
Sumitomo Mitsui Banking Corporation,
as a Lender

By: /s/ James Weinstein

Name: James Weinstein
Title: Managing Director

Restatement Agreement – Signature Page
TD Bank, N.A.,
as a Lender

By: /s/ Shivani Agarwal
    Name: Shivani Agarwal
    Title: Senior Vice President

Restatement Agreement – Signature Page
AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of August 3, 2016

among

IMPAX LABORATORIES, INC.,
as Borrower

ROYAL BANK OF CANADA,
as Administrative Agent and Collateral Agent

and

THE OTHER LENDERS PARTY HERETO

____________________
RBC CAPITAL MARKETS,*
CREDIT SUISSE SECURITIES (USA) LLC,
FIFTH THIRD BANK
and
BMO CAPITAL MARKETS CORP.
as Joint Lead Arrangers and Joint Lead Bookrunners

and

BANK OF AMERICA, N.A.,
MUFG UNION BANK, N.A.,
PNC BANK, NATIONAL ASSOCIATION,
DNB BANK ASA, NEW YORK BRANCH,
TD BANK, N.A.,
SUMITOMO MITSUI BANKING CORPORATION
and
CITIZENS BANK, N.A.,
as Co-Documentation Agents

*RBC Capital Markets is a brand name for the capital markets activities of Royal Bank of Canada and its affiliates.
<table>
<thead>
<tr>
<th>ARTICLE I</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 1.01</td>
<td>Defined Terms</td>
</tr>
<tr>
<td>SECTION 1.02</td>
<td>Other Interpretive Provisions</td>
</tr>
<tr>
<td>SECTION 1.03</td>
<td>Accounting Terms; Payment Dates</td>
</tr>
<tr>
<td>SECTION 1.04</td>
<td>Rounding</td>
</tr>
<tr>
<td>SECTION 1.05</td>
<td>References to Agreements, Laws, Etc</td>
</tr>
<tr>
<td>SECTION 1.06</td>
<td>Times of Day</td>
</tr>
<tr>
<td>SECTION 1.07</td>
<td>Available Amount Transactions</td>
</tr>
<tr>
<td>SECTION 1.08</td>
<td>Pro Forma Calculations; Limited Condition Acquisitions; Ratio Compliance</td>
</tr>
<tr>
<td>SECTION 1.09</td>
<td>Currency Equivalents Generally</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE II</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 2.01</td>
<td>Term Loans</td>
</tr>
<tr>
<td>SECTION 2.02</td>
<td>Revolving Loans</td>
</tr>
<tr>
<td>SECTION 2.03</td>
<td>Swing Line Loan</td>
</tr>
<tr>
<td>SECTION 2.04</td>
<td>Letters of Credit</td>
</tr>
<tr>
<td>SECTION 2.05</td>
<td>Conversion/Continuation</td>
</tr>
<tr>
<td>SECTION 2.06</td>
<td>Availability</td>
</tr>
<tr>
<td>SECTION 2.07</td>
<td>Prepayments</td>
</tr>
<tr>
<td>SECTION 2.08</td>
<td>Termination or Reduction of Commitments</td>
</tr>
<tr>
<td>SECTION 2.09</td>
<td>Repayment of Loans</td>
</tr>
<tr>
<td>SECTION 2.10</td>
<td>Interest</td>
</tr>
<tr>
<td>SECTION 2.11</td>
<td>Fees</td>
</tr>
<tr>
<td>SECTION 2.12</td>
<td>Computation of Interest and Fees</td>
</tr>
<tr>
<td>SECTION 2.13</td>
<td>Evidence of Indebtedness</td>
</tr>
<tr>
<td>SECTION 2.14</td>
<td>Payments Generally</td>
</tr>
<tr>
<td>SECTION 2.15</td>
<td>Sharing of Payments, Etc</td>
</tr>
<tr>
<td>SECTION 2.16</td>
<td>Incremental Borrowings</td>
</tr>
<tr>
<td>SECTION 2.17</td>
<td>Refinancing Amendments</td>
</tr>
<tr>
<td>SECTION 2.18</td>
<td>Extensions of Loans</td>
</tr>
<tr>
<td>SECTION 2.19</td>
<td>Defaulting Lenders</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE III</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 3.01</td>
<td>Taxes</td>
</tr>
<tr>
<td>SECTION 3.02</td>
<td>Illegality</td>
</tr>
<tr>
<td>SECTION 3.03</td>
<td>Inability to Determine Rates</td>
</tr>
<tr>
<td>SECTION 3.04</td>
<td>Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans</td>
</tr>
<tr>
<td>SECTION 6.10</td>
<td>Inspection Rights</td>
</tr>
<tr>
<td>SECTION 6.11</td>
<td>Covenant to Guarantee Obligations and Give Security</td>
</tr>
<tr>
<td>SECTION 6.12</td>
<td>Further Assurances</td>
</tr>
<tr>
<td>SECTION 6.13</td>
<td>Designation of Subsidiaries</td>
</tr>
<tr>
<td>SECTION 6.14</td>
<td>Use of Proceeds</td>
</tr>
<tr>
<td>SECTION 6.15</td>
<td>Maintenance of Ratings</td>
</tr>
</tbody>
</table>

**ARTICLE VII**

**Negative Covenants**

| SECTION 7.01 | Liens | 137 |
| SECTION 7.02 | Investments | 141 |
| SECTION 7.03 | Indebtedness | 145 |
| SECTION 7.04 | Fundamental Changes | 149 |
| SECTION 7.05 | Dispositions | 150 |
| SECTION 7.06 | Restricted Payments | 154 |
| SECTION 7.07 | Change in Nature of Business | 156 |
| SECTION 7.08 | Transactions with Affiliates | 156 |
| SECTION 7.09 | Burdensome Agreements | 157 |
| SECTION 7.10 | Changes in Fiscal Year | 159 |
| SECTION 7.11 | Prepayments, Etc. of Indebtedness; Amendments to Certain Documents. | 159 |

**ARTICLE VIII**

**Financial Covenant**

| SECTION 8.01 | Total Net Leverage Ratio | 161 |
| SECTION 8.02 | Borrower’s Right to Cure | 161 |

**ARTICLE IX**

**Events of Default and Remedies**

| SECTION 9.01 | Events of Default | 162 |
| SECTION 9.02 | Remedies upon Event of Default | 164 |
| SECTION 9.03 | Application of Funds | 165 |

**ARTICLE X**

**Administrative Agent and Other Agents**

<p>| SECTION 10.01 | Appointment and Authority of the Administrative Agent | 167 |
| SECTION 10.02 | Rights as a Lender | 167 |
| SECTION 10.03 | Exculpatory Provisions | 168 |
| SECTION 10.04 | Reliance by the Agents | 169 |
| SECTION 10.05 | Delegation of Duties | 169 |
| SECTION 10.06 | Non-Reliance on Agents and Other Lenders; Disclosure of Information by Agents | 169 |
| SECTION 10.07 | Indemnification of Agents | 170 |
| SECTION 10.08 | No Other Duties; Other Agents, Lead Arrangers, Managers, Etc | 171 |
| SECTION 10.09 | Resignation of Administrative Agent or Collateral Agent | 171 |
| SECTION 10.10 | Administrative Agent May File Proofs of Claim; Credit Bidding | 172 |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.11</td>
<td>Collateral and Guaranty Matters</td>
<td>173</td>
</tr>
<tr>
<td>10.12</td>
<td>Appointment of Supplemental Administrative Agents</td>
<td>174</td>
</tr>
<tr>
<td>10.13</td>
<td>Intercreditor Agreements</td>
<td>175</td>
</tr>
<tr>
<td>10.14</td>
<td>Secured Cash Management Agreements and Secured Hedge Agreements</td>
<td>175</td>
</tr>
<tr>
<td>10.15</td>
<td>Resignation as Issuing Bank or Swing Line Lender after Assignment</td>
<td>176</td>
</tr>
<tr>
<td>10.16</td>
<td>Withholding Tax</td>
<td>176</td>
</tr>
<tr>
<td>11.01</td>
<td>Amendments, Waivers, Etc</td>
<td>177</td>
</tr>
<tr>
<td>11.02</td>
<td>Notices and Other Communications; Facsimile Copies</td>
<td>180</td>
</tr>
<tr>
<td>11.03</td>
<td>No Waiver; Cumulative Remedies</td>
<td>182</td>
</tr>
<tr>
<td>11.04</td>
<td>Attorney Costs and Expenses</td>
<td>183</td>
</tr>
<tr>
<td>11.05</td>
<td>Indemnification by the Borrower</td>
<td>183</td>
</tr>
<tr>
<td>11.06</td>
<td>Marshaling; Payments Set Aside</td>
<td>184</td>
</tr>
<tr>
<td>11.07</td>
<td>Successors and Assigns</td>
<td>185</td>
</tr>
<tr>
<td>11.08</td>
<td>Confidentiality</td>
<td>189</td>
</tr>
<tr>
<td>11.09</td>
<td>Setoff</td>
<td>190</td>
</tr>
<tr>
<td>11.10</td>
<td>Interest Rate Limitation</td>
<td>191</td>
</tr>
<tr>
<td>11.11</td>
<td>Counterparts; Integration; Effectiveness</td>
<td>191</td>
</tr>
<tr>
<td>11.12</td>
<td>Electronic Execution of Assignments and Certain Other Documents</td>
<td>191</td>
</tr>
<tr>
<td>11.13</td>
<td>Survival</td>
<td>191</td>
</tr>
<tr>
<td>11.14</td>
<td>Severability</td>
<td>191</td>
</tr>
<tr>
<td>11.15</td>
<td>GOVERNING LAW</td>
<td>192</td>
</tr>
<tr>
<td>11.16</td>
<td>WAIVER OF RIGHT TO TRIAL BY JURY</td>
<td>192</td>
</tr>
<tr>
<td>11.17</td>
<td>Limitation of Liability</td>
<td>193</td>
</tr>
<tr>
<td>11.18</td>
<td>Judgment Currency</td>
<td>193</td>
</tr>
<tr>
<td>11.19</td>
<td>Lender Action</td>
<td>193</td>
</tr>
<tr>
<td>11.20</td>
<td>Use of Name, Logo, Etc</td>
<td>193</td>
</tr>
<tr>
<td>11.21</td>
<td>USA PATRIOT Act Notice</td>
<td>194</td>
</tr>
<tr>
<td>11.22</td>
<td>Service of Process</td>
<td>194</td>
</tr>
<tr>
<td>11.23</td>
<td>No Advisory or Fiduciary Responsibility</td>
<td>194</td>
</tr>
<tr>
<td>11.24</td>
<td>Payments Set Aside</td>
<td>194</td>
</tr>
<tr>
<td>11.25</td>
<td>Binding Effect</td>
<td>195</td>
</tr>
<tr>
<td>11.26</td>
<td>Headings</td>
<td>195</td>
</tr>
<tr>
<td>11.27</td>
<td>Amendment and Restatement; No Novation</td>
<td>195</td>
</tr>
</tbody>
</table>
SCHEDULES

1.01A Guarantors
1.01B Mortgaged Properties
2.01 Commitments
5.11(1) ERISA Compliance
5.12 Subsidiaries and Other Equity Investments
7.01 Existing Liens
7.02 Existing Investments
7.03 Existing Indebtedness
7.08 Transactions with Affiliates
7.09 Existing Restrictions
11.02 Administrative Agent’s Office, Certain Addresses for Notices

EXHIBITS

Form of

A-1 Committed Loan Notice
A-2 Issuance Notice
A-3 Swing Line Loan Request
A-4 Conversion/Continuation Notice
B-1 Revolving Loan Note
B-2 Swing Line Note
B-3 Term Loan Note
C Compliance Certificate
D Assignment and Assumption
E Guaranty
F Security Agreement
G-1 Non-Bank Certificate
G-2 Non-Bank Certificate
G-3 Non-Bank Certificate
G-4 Non-Bank Certificate
H Intercompany Subordination Agreement
I Solvency Certificate
J Prepayment Notice
K Equal Priority Intercreditor Agreement
L Junior Lien Intercreditor Agreement
M-1 Discount Range Prepayment Notice
M-2 Discount Range Prepayment Offer
M-3 Solicited Discounted Prepayment Notice
M-4 Solicited Discounted Prepayment Offer
M-5 Specified Discount Prepayment Notice
M-6 Specified Discount Prepayment Response
M-7 Acceptance and Prepayment Notice
CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT entered into as of August 4, 2015, as amended and restated as of August 3, 2016, among IMPAX LABORATORIES, INC., a Delaware corporation (the “Borrower” or “Impax”), Royal Bank of Canada, as administrative agent (in such capacity, including any successor thereto, the “Administrative Agent”) and as collateral agent (in such capacity, including any successor thereto, the “Collateral Agent”) under the Loan Documents, the other agents listed on the cover page, and each lender from time to time party hereto (collectively, the “Lenders” and, individually, a “Lender”).

PRELIMINARY STATEMENTS

The Borrower, the Administrative Agent, the Collateral Agent and the Lenders party thereto have previously entered into the Credit Agreement, dated as of August 4, 2015 (the “Prior Credit Agreement”).

The Borrower has requested the Lenders to extend credit in the form of Revolving Loans at any time and from time to time prior to the Maturity Date, in an aggregate principal amount at any time outstanding not in excess of $200,000,000, as may be increased pursuant to Section 2.16.

The Borrower has requested the Lenders to extend credit on the Restatement Effective Date in the form of Term A-1 Loans in an aggregate principal amount not in excess of $400,000,000.

The proceeds of the Revolving Loans, together with the proceeds of the Convertible Notes, are to be used solely to (a) finance ongoing working capital needs and other general corporate purposes, including to finance Permitted Acquisitions, and (b) to pay fees and expenses in connection with the foregoing. The proceeds of the Term A-1 Loans, together with cash on hand of the Borrower and its Restricted Subsidiaries, are to be used solely to (a) finance a portion of the Argentum Acquisitions, and (b) to pay fees and expenses in connection with the Argentum Acquisitions and the Initial Term Loans.

To effect the foregoing, the parties hereby agree, effective on and as of the Restatement Effective Date, to amend and restate the Prior Credit Agreement on the terms and subject to the conditions set forth herein.

The applicable Lenders have indicated their willingness to lend, and the Issuing Bank has indicated its willingness to issue Letters of Credit, in each case on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

Definitions and Accounting Terms

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“Acceptable Discount” has the meaning specified in Section 2.07(1)(d)(iv)(2).
“Acceptable Prepayment Amount” has the meaning specified in Section 2.07(1)(d)(iv)(3).

“Acceptance and Prepayment Notice” means a notice of the Borrower’s acceptance of the Acceptable Discount in substantially the form of Exhibit M-7.

“Acceptance Date” has the meaning specified in Section 2.07(1)(d)(iv)(2).

“Acquired Allergan Assets” means the “Transferred Assets” under and as defined in the Allergan Acquisition Agreement.

“Acquired Argentum Assets” means collectively, the Acquired Allergan Assets and the Acquired Teva Assets.

“Acquired Teva Assets” means the “Transferred Assets” under and as defined in the Teva Acquisition Agreement.

“Acquisition” means the acquisition by the Borrower of Tower Holdings, Inc., a Delaware Corporation and Lineage Therapeutics, Inc., a Delaware Corporation, pursuant to the Acquisition Agreement.


“Additional Lender” means, at any time, any bank, other financial institution or institutional investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.16 or (b) Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.17; provided, that each Additional Lender shall be subject to the approval of the Administrative Agent, the Issuing Bank or the Swing Line Lender (such approval not to be unreasonably withheld, conditioned or delayed), in each case to the extent any such consent would be required from such Person under Section 11.07(2)(c)(ii), (iii) or (iv), respectively, for an assignment of such Loans to such Additional Lender.

“Adjusted Eurodollar Rate” means, with respect to any Borrowing of Eurodollar Rate Loans for any Interest Period, an interest rate per annum equal to the Eurodollar Rate based on the definition of “Eurodollar Rate” for such Interest Period multiplied by the Statutory Reserve Rate. The Adjusted Eurodollar Rate will be adjusted automatically as to all Borrowings of Eurodollar Rate Loans then outstanding as of the effective date of any change in the Statutory Reserve Rate.

“Administrative Agent” has the meaning specified in the introductory paragraph to this Agreement.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.
“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have the meanings correlative thereto. For the avoidance of doubt, none of the Lead Arrangers, the Agents or their respective lending affiliates (in their capacities as such) shall be deemed to be an Affiliate of the Borrower or any of their respective Subsidiaries.

“Agent Parties” has the meaning specified in Section 11.02(3).

“Agent-Related Persons” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons’ Affiliates.

“Agents” means, collectively, the Administrative Agent, the Collateral Agent, the Supplemental Administrative Agents (if any), the Lead Arrangers and the Lead Bookrunners.

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Amended and Restated Credit Agreement, as amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

“Agreement Currency” has the meaning specified in Section 11.18.

“Allergan Acquisition” means the acquisition by the Borrower of the Acquired Allergan Assets pursuant to the Allergan Acquisition Agreement.


“All-In Yield” means, as to any Indebtedness or Loans of any Class, the yield thereof, as determined by the Administrative Agent in good faith consistent with generally accepted financial practices, in the form of interest rate margin, OID, upfront fees, rate floors (to the extent such rate floor would increase the yield on drawn amounts on the date of the initial draw compared to the particular Indebtedness or Loans at issue) or otherwise; provided, that OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of its incurrence of the applicable Indebtedness); provided, further, that “All-In Yield” shall not include bona fide arrangement fees, structuring fees, underwriting, ticking or similar fees.

“Annual Financial Statements” means the audited consolidated balance sheets of the Company as of December 31, 2013 and December 31, 2014 and of the Borrower as of December 31, 2015, and the related consolidated statements of operations, cash flows and stockholders’ equity of the Company or the Borrower, as applicable, for the fiscal years then ended.

“Applicable Commitment Fee” means the applicable rate per annum set forth below under the caption “Applicable Commitment Fee” based upon the Total Net Leverage Ratio as of the last day of the
most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(1):

<table>
<thead>
<tr>
<th>Total Net Leverage Ratio</th>
<th>Applicable Commitment Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above 3.00:1.00</td>
<td>0.50%</td>
</tr>
<tr>
<td>Equal to or below 3.00:1.00</td>
<td>0.375%</td>
</tr>
</tbody>
</table>

No change in the Applicable Commitment Fee shall be effective until three (3) Business Days after the date on which the Administrative Agent shall have received the applicable financial statements pursuant to Section 6.01 and a Compliance Certificate pursuant to Section 6.02(1) calculating the Total Net Leverage Ratio. At any time the Borrower has not submitted to the Administrative Agent the applicable information as and when required under Section 6.01 and Section 6.02(1), the Applicable Commitment Fee shall be determined as if the Total Net Leverage Ratio were in excess of 3.00 to 1.00. Within one (1) Business Day of receipt of the applicable information under Section 6.01 and Section 6.02(1), the Administrative Agent shall give each Lender telefacsimile or telephonic notice (confirmed in writing) of the Applicable Commitment Fee in effect from such date.

In the event that any financial statement or certificate delivered pursuant to Section 6.01 or Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Commitment Fee for any such period than the Applicable Commitment Fee applied for such period, then (i) the Borrower shall promptly (and in any event within five (5) Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.01 and Section 6.02 for such period, (ii) the Applicable Commitment Fee for such period shall be determined as if the Total Net Leverage Ratio were determined based on the amounts set forth in such correct financial statements and certificates and (iii) the Borrower shall promptly (and in any event within ten (10) Business Days) following delivery of such corrected financial statements and certificates pay to the Administrative Agent the accrued additional amounts owing as a result of such increased Applicable Commitment Fee for such period. Nothing in this paragraph shall limit the right of the Administrative Agent or any Lender under Section 2.10 or Article IX. Notwithstanding anything to the contrary set forth herein, solely with respect to the provisions of this paragraph, such provisions may be amended or waived with the consent of only the Borrower and the Required Revolving Lenders.

“Applicable Discount” has the meaning specified in Section 2.07(1)(d)(iii)(2).

“Applicable Indebtedness” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“Applicable Rate” means, with respect to Revolving Loans and Term A-1 Loans a percentage per annum equal to the applicable rate per annum set forth below under the caption “Base Rate Spread” or “Eurodollar Rate Spread,” respectively, based upon the Total Net Leverage Ratio as of the last day of the most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(1):

<table>
<thead>
<tr>
<th>Pricing Level</th>
<th>Total Net Leverage Ratio</th>
<th>Eurodollar Rate Spread</th>
<th>Base Rate Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Above 4.00:1.00</td>
<td>3.50%</td>
<td>2.50%</td>
</tr>
<tr>
<td>2</td>
<td>Equal to or below 4.00:1.00 and above 3.00:1.00</td>
<td>3.25%</td>
<td>2.25%</td>
</tr>
</tbody>
</table>
Equal to or below 3.00:1.00 and above 2.00:1.00
3.00% 2.00%

Equal to or below 2.00:1.00
2.75% 1.75%

Any increase or decrease in the Applicable Rate resulting from a change in the Total Net Leverage Ratio shall become effective as of the third Business Day immediately following the date on which the Administrative Agent shall have received the applicable financial statements pursuant to Section 6.01 and a Compliance Certificate pursuant to Section 6.02(1); provided, however, that if such financial statements or a Compliance Certificate are not delivered when due in accordance with such Sections, then Pricing Level 1 shall apply in respect of the Revolving Loans, Term A-1 Loans and L/C Fees as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the date on which such Compliance Certificate is delivered.

In the event that any financial statement or certificate delivered pursuant to Section 6.01 or Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have resulted in a higher Applicable Rate for such period, (i) the Borrower shall promptly (and in any event within five (5) Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.01 and Section 6.02 for such period, (ii) the Applicable Rate for such period shall be determined as if the Total Net Leverage Ratio were determined based on the amounts set forth in such correct financial statements and certificates and (iii) the Borrower shall promptly (and in any event within ten (10) Business Days) and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the Issuing Bank, as the case may be, an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. Nothing in this paragraph shall limit the rights of the Administrative Agent, any Lender or the Issuing Bank, as the case may be, under Section 2.10 or under Article IX. The Borrower’s obligations under this paragraph shall survive the termination of the Revolving Commitments, the repayment of the Term A-1 Loans and the repayment of all other Obligations hereunder. Notwithstanding anything to the contrary set forth herein, solely with respect to the provisions of this paragraph, such provisions may be amended or waived with the consent of only the Borrower and (x) with respect to the Applicable Rate for Revolving Loans, the Required Revolving Lenders and (y) with respect to the Applicable Rate for Term A-1 Loans, the Required Facility Lenders in respect of the Term A-1 Loans.

“Appropriate Lender” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“Approved Fund” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“Argentum Acquisition Agreement” means the Allergan Acquisition Agreement and/or the Teva Acquisition Agreement, as the context may require.
“Argentum Acquisitions” means the Teva Acquisition and the Allergan Acquisition.

“Argentum Acquisition Representations” means (a) the representations made with respect to the Acquired Allergan Assets in the Allergan Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that the Borrower has the right (taking into account any applicable cure provision) to terminate its obligations under the Allergan Acquisition Agreement, or it results in a failure of a condition precedent to the Borrower’s obligation to consummate the Allergan Acquisition pursuant to the Allergan Acquisition Agreement (taking into account any applicable cure provision), as a result of a breach of such representations in the Allergan Acquisition Agreement and (b) the representations made with respect to the Acquired Teva Assets in the Teva Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that the Borrower has the right (taking into account any applicable cure provision) to terminate its obligations under the Teva Acquisition Agreement, or it results in a failure of a condition precedent to the Borrower’s obligation to consummate the Teva Acquisition pursuant to the Teva Acquisition Agreement (taking into account any applicable cure provision), as a result of a breach of such representations in the Teva Acquisition Agreement.

“Argentum Transactions” means, collectively,

1. the Argentum Acquisitions,
2. the funding of the Term A-1 Loans on the Restatement Effective Date,
3. the funding of the Revolving Loans (if any) on the Restatement Effective Date,
4. entrance into the Restatement Agreement;
5. the consummation of any other transactions in connection with the foregoing, and
6. the payment of the fees and expenses incurred in connection with any of the foregoing.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D-1 or any other form approved by the Administrative Agent.

“Attorney Costs” means all reasonable and documented in reasonable detail fees, expenses and disbursements of any law firm or other external legal counsel.

“Attributable Indebtedness” means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“Auction Agent” means (a) the Administrative Agent or (b) any other financial institution or advisor engaged by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Loan Prepayment pursuant to Section 2.07(1); provided, that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); provided, further, that neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“Auto-Renewal Letter of Credit” has the meaning specified in Section 2.04(2)(c).
“Available Amount” means, at any time (the “Reference Date”), a cumulative amount equal to the sum of, without duplication:

1. an amount equal to 50% of the Consolidated Net Income of the Borrower for the period (taken as one accounting period) from the first day of the fiscal quarter during which the Closing Date occurs to the end of the Borrower’s most recently ended fiscal quarter for which financial statements required to be delivered pursuant to Section 6.01(1) or Section 6.01(2) have been received by the Administrative Agent (or in the case such Consolidated Net Income is a deficit, minus 100% of such deficit); plus

2. the amount of any capital contributions or Net Cash Proceeds from Permitted Equity Issuances (or issuances of debt securities representing obligations of the Borrower or Restricted Subsidiaries (other than debt securities representing intercompany Indebtedness) that have been converted into or exchanged for Qualified Equity Interests) received by the Borrower as equity solely in exchange for Qualified Equity Interests of the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date and, in each case, other than the proceeds of Specified Equity Contributions Not Otherwise Applied; plus

3. to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the aggregate amount of all cash dividends and other cash distributions received by the Borrower or any Restricted Subsidiary from any Minority Investments or Unrestricted Subsidiaries during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date in respect of Investments in such Unrestricted Subsidiary or Minority Investments made in reliance on the Available Amount; plus

4. to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the Investments of the Borrower and its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary or that has been merged or consolidated with or into the Borrower or any of its Restricted Subsidiaries (up to the lesser of (a) the fair market value (as determined in good faith by the Borrower) of the Investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary at the time of such re-designation or merger or consolidation and (b) the fair market value (as determined in good faith by the Borrower) of the original Investments by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary); plus

5. to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the sale, transfer or other disposition of its ownership interest in any Minority Investment or Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date, in each case, to the extent that the original Investments in such Unrestricted Subsidiary or Minority Investments were made in reliance on the Available Amount (up to the lesser of (a) such returns, profits, distributions and similar amounts and (b) the fair market value (as determined in good faith by the Borrower) of the original Investments by the Borrower and its Restricted Subsidiaries); plus

6. to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the returns (including
repayments of principal and payments of interest), profits, distributions and similar amounts received in cash or Cash Equivalents by the Borrower and its Restricted Subsidiaries on Investments made by the Borrower or any Restricted Subsidiary in reliance on the Available Amount; minus

(7) the aggregate amount of any Investments made pursuant to Section 7.02(24)(b), Restricted Payments made pursuant to Section 7.06(11)(b) and prepayments, repayments, redemptions, purchases or other amounts paid in respect of Junior Financing pursuant to Section 7.11(b)(x)(B), in each case during the period commencing on the Closing Date and ending on the Reference Date (and, for purposes of this clause (7), without taking account of the intended usage of the Available Amount on such Reference Date in the contemplated transaction).

Notwithstanding anything to the contrary, to the extent any Net Cash Proceeds from any Disposition or Casualty Event are not applied to make a prepayment pursuant to Section 2.07(2)(b) by virtue of the application of Section 2.07(2)(f), the proceeds from such Disposition or Casualty Event shall not under any circumstances increase the Available Amount.

“Bail-In Action” means, as to any EEA Financial Institution, the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of such EEA Financial Institution.

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by the Administrative Agent as its “prime rate,” and (c) the Adjusted Eurodollar Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day). Any change in such rate announced by RBC shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement, together with its successors and assigns permitted hereunder.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrower Offer of Specified Discount Prepayment” means the offer by the Borrower to make a voluntary prepayment of Term Loans at a specified discount to par pursuant to Section 2.07(1)(d)(ii).

“Borrower Solicitation of Discount Range Prepayment Offers” means the solicitation by the Borrower of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Term Loans at a specified range of discounts to par pursuant to Section 2.07(1)(d)(iii).

“Borrower Solicitation of Discounted Prepayment Offers” means the solicitation by the Borrower of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Term Loans at a discount to par pursuant to Section 2.07(1)(d)(iv).
“Borrowing” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurodollar Rate Loans, having the same Interest Period.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the jurisdiction where the Administrative Agent’s Office is located (which, as of the date of this Agreement, is Toronto, Ontario, Canada or New York, New York) and if such day relates to any interest rate settings as to a Eurodollar Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurodollar Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Leases” means all leases that have been or are required to be, in accordance with GAAP, recorded as capitalized leases; provided, that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP.

“Captive Insurance Subsidiary” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash Collateral Account” means an account held at, and subject to the sole dominion and control of, the Administrative Agent.

“Cash Collateralize” means, in respect of an Obligation, to pledge and deposit (as a first priority perfected security interest) cash collateral in Dollars, at a location and pursuant to documentation in form and substance satisfactory to Administrative Agent, the Issuing Bank or the Swing Line Lender, as applicable (and “Cash Collateralization” has a corresponding meaning). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any Restricted Subsidiary:

1. Dollars, Euros or Taiwan New Dollars;

2.readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;

3. certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or

-9-
(4) repurchase obligations for underlying securities of the types described in clauses (2) and (3) above or clause (6) below entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper rated at least P-2 by Moody’s or at least A-2 by S&P (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of creation thereof;

(6) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of creation thereof;

(7) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof, in each case having an Investment Grade Rating from either Moody’s or S&P (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition;

(8) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA - (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(9) investment funds investing substantially all of their assets in securities of the types described in clauses (1) through (8) above; and

(10) solely with respect to any Captive Insurance Subsidiary, any investment that such Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (a) investments of the type and maturity described in clauses (1) through (10) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (b) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (10) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (1) above, provided, that such amounts, except amounts used to pay non-Dollar denominated obligations of the Borrower or any Restricted Subsidiary in the ordinary course of business, are converted into Dollars as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.
“Cash Management Bank” means any Person that is a Lender or Agent or an Affiliate of a Lender or Agent at the time it initially provides any Cash Management Services, whether or not such Person subsequently ceases to be a Lender or Agent or an Affiliate of a Lender or Agent.

“Cash Management Obligations” means obligations owed by the Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of or in connection with any Cash Management Services and designated by the Cash Management Bank and the Borrower in writing to the Administrative Agent as “Cash Management Obligations.”

“Cash Management Services” means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

“Casualty Event” means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“CFC” means a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“CFC Holdco” means a Domestic Subsidiary that has no material assets other than Equity Interests (or Equity Interests and Indebtedness) of one or more Foreign Subsidiaries that are CFCs, including the indirect ownership of such Equity Interests (or Equity Interests and Indebtedness) through one or more Domestic Subsidiaries that have no material assets other than such assets.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following:

(1) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement),

(2) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority, or

(3) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

It is understood and agreed that (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173) and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (b) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervisory Practices (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law” regardless of the date enacted, adopted, issued or implemented.

“Change of Control” means (a) any Person or Persons constituting a “group” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of Equity Interests representing more than thirty-five
percent (35%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower; or (b) the occurrence of a change of control, or similar provision, as defined in any agreement or instrument governing any Indebtedness for borrowed money in an aggregate principal amount in excess of the Threshold Amount.

“Class” when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Term A-1 Loans, Swing Line Loans, Incremental Term Loans, Refinancing Term Loans, Refinancing Revolving Loans, Extended Term Loans or Extended Revolving Loans, (b) any Commitment, refers to whether such Commitment is a Commitment in respect of Revolving Loans, Term A-1 Loans, Swing Line Loans, Refinancing Term Commitment (and, in the case of an Refinancing Term Commitment, the Class of Loans to which such commitment relates), Refinancing Revolving Commitment (and, in the case of an Refinancing Revolving Commitment, the Class of Loans to which such commitment relates) or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment or an Extension Amendment and (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Refinancing Term Commitments, Refinancing Revolving Commitments, Refinancing Term Loans, Refinancing Revolving Loans, Incremental Term Loans and Extended Term Loans that have different terms and conditions shall be construed to be in different Classes.

“Closing Date” means August 4, 2015, which was the date on which the conditions precedent to the Prior Credit Agreement in Section 4.01 were satisfied or waived in accordance with Section 11.01 and the Initial Revolving Commitments were made available to the Borrower pursuant to Section 2.02.


“Collateral” means all the “Collateral” (or equivalent term) as defined in any Collateral Document, the Mortgaged Properties and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Collateral Document.

“Collateral Agent” has the meaning specified in the introductory paragraph to this Agreement.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(1) the Collateral Agent will have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.01(1)(c) or, after the Closing Date, pursuant to Section 6.11 or Section 6.12, duly executed by each Loan Party that is a party thereto;

(2) all Obligations will have been unconditionally guaranteed by (a) each Restricted Subsidiary of the Borrower that is a wholly owned Material Domestic Subsidiary (other than an Excluded Subsidiary), including those that are listed on Schedule 1.01A hereto, and (b) any other Subsidiary of the Borrower that Guarantees any Indebtedness incurred by the Borrower pursuant to (A) any Junior Financing or (B) any Credit Agreement Refinancing Indebtedness (or, in the case of each of the preceding clauses (A) and (B), any Permitted Refinancing thereof) (each Subsidiary described in clause (a) or (b), a “Guarantor”);

(3) the Obligations will have been secured by a perfected first-priority security interest (subject to Liens permitted by Section 7.01) in:
(a) all Equity Interests of each Guarantor and each Material Domestic Subsidiary and Material Foreign Subsidiary that are directly owned by the Borrower or any Guarantor, other than Excluded Equity Interests (as defined in the Security Agreement); and

(b) all Indebtedness and evidence of Indebtedness held by any Loan Party;

provided, that (A) all Indebtedness of the Borrower or any wholly owned Restricted Subsidiary that is owing to any Loan Party will be subject to the Intercompany Subordination Agreement and (B) to the extent required by the Security Agreement, the Collateral Agent will have received all instruments evidencing Indebtedness referred to in clause (b) above together with undated instruments of transfer with respect thereto endorsed in blank;

(4) except to the extent otherwise provided hereunder including subject to Liens permitted by Section 7.01 or under any Collateral Document, and, in each case, subject to exceptions and limitations otherwise set forth in this Agreement and in the Collateral Documents, the Obligations and the Guaranty shall have been secured by a first-priority security interest in substantially all tangible and intangible personal property of the Borrower and each Guarantor (including accounts receivable), inventory, equipment, investment property, contract rights, applications and registrations of intellectual property filed in the United States, other general intangibles, and proceeds of the foregoing, in each case, which security interest shall be perfected to the extent such security interest may be perfected by (a) delivering certificated securities or instruments or providing “control” with respect to uncertificated equity interests, (b) filing financing statements with respect to a Loan Party under the Uniform Commercial Code or (c) making any necessary filings with the United States Patent and Trademark Office or United States Copyright Office; provided, that any such security interests in the Collateral shall be subject to the terms of the Intercreditor Agreements; and

(5) the Collateral Agent shall have received the items set forth in Section 6.11(2)(b) herein.

Nothing in the Loan Documents (including this definition) shall require the creation, perfection or maintenance of pledges of or security interests in, or the obtaining of title insurance or abstracts with respect to, Excluded Assets or any other particular assets if and for so long as, in the reasonable judgment of the Collateral Agent, the cost of creating, perfecting or maintaining such pledges or security interests in such other assets or obtaining title insurance or abstracts in respect of such other assets shall be excessive in view of the fair market value (as determined by the Borrower in its reasonable judgment) of such other assets or the practical benefit to the Lenders afforded thereby.

The Collateral Agent may grant extensions of time for the creation or perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date, as applicable, for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

No actions required by the Laws of any non-U.S. jurisdiction shall be required in order to create or perfect any security interests in any assets located outside of the U.S. (including any intellectual property registered in any non-U.S. jurisdiction), and there is no obligation to execute or deliver security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction.
agreements shall be required with respect to any deposit account, securities account, commodities account or other bank account.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Intercompany Subordination Agreement, the Mortgages, and each of the mortgages, collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(1)(c), 6.11 or 6.12, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitments” means the Revolving Commitments and the Term Loan Commitments.

“Committed Loan Notice” means a notice of a Borrowing pursuant to Article II, which, if in writing, shall be substantially in the form of Exhibit A-1.

“Commodity Exchange Act” shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Company” means Tower Holdings, Inc., a Delaware Corporation and Lineage Therapeutics, Inc., a Delaware Corporation.

“Compliance Certificate” means a certificate substantially in the form of Exhibit C and executed by a Responsible Officer of the Borrower,

(a) certifying as to whether a Default or Event of Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto,

(b) attaching the financial statements delivered under Section 6.01(1) or (2), as applicable, and certifying as to (and containing all information and calculations necessary for determining) compliance with the financial covenant under Section 8.01 as of the last day of the applicable Test Period, and

(c) in the case of financial statements delivered under Section 6.01(1), setting forth a reasonably detailed calculation of the Net Cash Proceeds received during the applicable period by or on behalf of, the Borrower or any of the Restricted Subsidiaries in respect of any Disposition or Casualty Event subject to prepayment pursuant to Section 2.07(2)(b)(i) and the portion of such Net Cash Proceeds that has been invested or are intended to be reinvested in accordance with Section 2.07(2)(b)(ii).

“Consolidated Adjusted EBITDA” means, with respect to any Person for any Test Period, Consolidated Net Income of such Person for such Test Period, adjusted by:

(1) adding thereto, in each case only to the extent deducted in determining such Consolidated Net Income and without duplication:

(a) Consolidated Interest Expense for such Test Period;
(b) Consolidated Amortization Expense for such Test Period;
(c) Consolidated Depreciation Expense for such Test Period;
(d) Consolidated Tax Expense for such Test Period;

(e) the amount of any restructuring, integration, remediation or similar charges, costs, expenses or reserves in such Test Period (whether or not characterized as such in accordance with GAAP), including charges, costs, expenses or reserves incurred or taken in connection with (A) Permitted Acquisitions and Investments after the Closing Date (including the Argentum Acquisitions) and (B) severance and the consolidation or closing of any facilities after the Closing Date;

(f) the amount of costs relating to signing, retention and completion bonuses, relocation expenses, recruiting expenses, costs and expenses incurred in connection with any strategic or new initiatives, transition costs, consolidation and closing costs for facilities and new systems design and implementation costs;

(g) the amount of “run-rate” cost savings, operating expense reductions and synergies projected by such Person in good faith to result from actions taken, committed, to be taken or expected to be taken no later than 18 months after the end of such Test Period (which cost savings shall be determined by the Borrower in good faith and calculated on a Pro Forma Basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such Test Period), net of the amount of actual benefits realized during such Test Period from such actions; provided, that amounts added back pursuant to this clause (g) shall not exceed 15% of Consolidated Adjusted EBITDA on a Pro Forma Basis prior to giving effect to this clause (g);

(h) any costs or expenses incurred in such Test Period pursuant to any management equity plan, profits interest or stock option plan or any other management or employee benefit plan or agreement or any stock subscription, stockholders or partnership agreement;

(i) any net loss from disposed or discontinued operations;

(j) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated Adjusted EBITDA or Consolidated Net Income of such Person in any Test Period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated Adjusted EBITDA of such Person pursuant to paragraph (2) below for any previous Test Period and not added back;

(k) any other non-cash charges or expenses reducing Consolidated Net Income for such Test Period (provided, that if any such non-cash charges or expenses represent an accrual or reserve for potential cash items in any future Test Period, (i) such Person may determine not to add back such non-cash charge or expense in the current Test Period and (ii) to the extent such Person does decide to add back such non-cash charge or expense, the cash payment in respect thereof in such future Test Period shall be subtracted from Consolidated Adjusted EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior Test Period);

(l) the amount of any expenses paid on behalf of any member of the board of directors or reimbursable to such member of the board of directors;
all judgments, liabilities, obligations, damages of any kind, including liquidated damages, settlement amounts, losses, fines, costs, fees, expenses (including, without limitation, reasonable attorneys’ fees and disbursements), penalties and interest and other charges or expenses in connection with any lawsuit or other proceeding against such Person and its Subsidiaries; provided, that the amounts added back pursuant to this clause (m) shall not exceed 15% of Consolidated Adjusted EBITDA prior to giving effect to this clause (m);

(n) the amount of loss or discount on sale of receivables, Securitization Assets and related assets to any Securitization Subsidiary in connection with a Qualified Securitization Financing;

(o) expenses in the form of bonuses paid to employees in connection with Permitted Acquisitions or third party investments permitted under Section 7.02 and expenses, charges and losses resulting from the payment of earn-out obligations;

(p) the amount of any contingent payments in connection with the licensing of intellectual property or other assets; and

(q) any extraordinary, non-recurring or unusual costs, fees, charges or expenses; and

(2) subtracting therefrom, in each case only to the extent (and in the same proportion) added in determining such Consolidated Net Income and without duplication:

(a) the aggregate amount of all non-cash items increasing Consolidated Net Income (other than (i) the accrual of revenue or recording of receivables in the ordinary course of business and (ii) the reversal of any accrual of a reserve referred to in the parenthetical in clause (1)(k) of this definition (other than any such reversal that results from a cash payment subtracted from Consolidated Adjusted EBITDA)) for such Test Period;

(b) any extraordinary, non-recurring or unusual gains; and

(c) any net income from disposed or discontinued operations.

Notwithstanding the foregoing, Consolidated Adjusted EBITDA of the Borrower (i) for the fiscal quarter ended June 30, 2014, shall be deemed to be $90.4 million, (ii) for the fiscal quarter ended September 30, 2014, shall be deemed to be $70.5 million, (iii) for the fiscal quarter ended December 31, 2014, shall be deemed to be $42.1 million and (iv) for the fiscal quarter ended March 31, 2015, shall be deemed to be $27.0 million, as may be subject to add-backs and adjustments (without duplication) pursuant to clause (1)(g) above and Section 1.08(3) for the applicable Test Period.

“Consolidated Amortization Expense” means, with respect to any Person for any Test Period, the amortization expense of such Person and its Restricted Subsidiaries for such Test Period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Current Assets” means, as of any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current
or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and
derivative financial instruments, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization
accounting or purchase accounting, as the case may be, in relation to the Transactions, the Argentum Transactions or any consummated
acquisition.

“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of the Borrower and the Restricted
Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding:

(a) the current portion of any Funded Debt,
(b) the current portion of interest,
(c) accruals for current or deferred taxes based on income or profits,
(d) accruals of any costs or expenses related to restructuring reserves,
(e) Revolving Loans, Swing Line Loans and Letter of Credit Obligations or any other revolving facility,
(f) the current portion of any Capitalized Lease Obligation,
(g) deferred revenue arising from cash receipts that are earmarked for specific projects,
(h) liabilities in respect of unpaid earn-outs, and
(i) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions, the Argentum Transactions or any consummated acquisition.

“Consolidated Depreciation Expense” means, with respect to any Person for any Test Period, the depreciation expense of such
Person and its Restricted Subsidiaries for such Test Period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Interest Expense” means, with respect to any Person for any Test Period, the total consolidated interest expense of
such Person and its Restricted Subsidiaries for such Test Period determined on a consolidated basis in accordance with GAAP plus, without
duplication:

(1) imputed interest on Capitalized Lease Obligations and Attributable Indebtedness of such Person and its Restricted
Subsidiaries for such Test Period;

(2) commissions, discounts and other fees, charges and expenses owed by such Person and its Restricted Subsidiaries with
respect to letters of credit securing financial obligations, bankers’ acceptance financing and receivables financings for such Test
Period;

(3) amortization of debt issuance costs, debt discount or premium and other financing fees and expenses incurred by such
Person and its Restricted Subsidiaries for such Test
Period including under the Term Loan and the net costs under Hedge Agreements dealing with interest rates and any commitment fees payable thereunder;

(4) cash contributions to any employee stock ownership plan or similar trust made by such Person and its Restricted Subsidiaries to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than such Person or a wholly owned Subsidiary) in connection with Indebtedness incurred by such plan or trust for such Test Period;

(5) all interest paid or payable with respect to discontinued operations of such Person and its Restricted Subsidiaries for such Test Period;

(6) the interest portion of any deferred payment obligations of such Person and its Restricted Subsidiaries for such Test Period; and

(7) all interest on any Indebtedness of such Person and its Restricted Subsidiaries that is (a) Indebtedness of others secured by any Lien on property owned or acquired by such Person or its Subsidiaries, whether or not the obligations secured thereby have been assumed, but limited to the fair market value of such property or (b) contingent obligations of such Person or its Subsidiaries in respect of Indebtedness;

provided, that Consolidated Interest Expense shall be calculated after giving effect to Hedge Agreements related to interest rates (including associated costs), but excluding unrealized gains and losses with respect to such Hedge Agreements.

“Consolidated Net Debt” means, as of any date of determination, (a) Consolidated Total Debt minus (b) up to $125 million of cash and Cash Equivalents and short term investments of the Borrower and its Restricted Subsidiaries as of such date that are not Restricted.

“Consolidated Net Income” means, with respect to any Person for any Test Period, the Net Income of such Person and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP; provided, that there shall be excluded from such consolidated net income (to the extent otherwise included therein), without duplication:

(1) the Net Income for such Test Period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided, that the Borrower’s or any Restricted Subsidiary’s equity in the Net Income of such Person shall be included in the Consolidated Net Income of the Borrower for such Test Period up to the aggregate amount of dividends or distributions or other payments in respect of such equity that are actually paid in cash (or to the extent converted into cash) by such Person to the Borrower or a Restricted Subsidiary, in each case, in such Test Period, to the extent not already included therein (subject in the case of dividends, distributions or other payments in respect of such equity made to a Restricted Subsidiary to the limitations contained in clause (2) below);

(2) solely with respect to the calculation of Available Amount, (a) the Net Income of any Subsidiary of such Person during such Test Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of that income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or requirement of Law applicable to such Subsidiary during such Test Period; provided, that Consolidated Net Income of such Person shall be increased by the amount of dividends or distributions or other payments that are actually paid to such Person or its Restricted Subsidiaries
in respect of such Test Period and (b) the Net Income of any Person for the period prior to its becoming a Subsidiary;

(3) any gain (or loss), together with any related provisions for taxes on any such gain (or the tax effect of any such loss), realized by such Person or any of its Restricted Subsidiaries during such Test Period upon any asset sale or other disposition of any Equity Interests of any Person (other than any dispositions in the ordinary course of business) by such Person or any of its Restricted Subsidiaries;

(4) gains and losses due solely to fluctuations in currency values and the related tax effects determined in accordance with GAAP for such Test Period;

(5) earnings (or losses), including any impairment charge, resulting from any reappraisal, revaluation or write-up (or write-down) of assets during such Test Period;

(6) (a) unrealized gains and losses with respect to Hedge Agreements for such Test Period and the application of Accounting Standards Codification 815 (Derivatives and Hedging) and (b) any after-tax effect of income (or losses) for such Test Period that result from the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments;

(7) any extraordinary, non-recurring or unusual gain (or extraordinary, non-recurring or unusual loss), together with any related provision for taxes on any such gain (or the tax effect of any such loss), recorded or recognized by such Person or any of its Restricted Subsidiaries during such Test Period;

(8) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such Test Period;

(9) any after-tax gains (or losses) on disposal of disposed, abandoned or discontinued operations for such Test Period;

(10) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue, debt and unfavorable or favorable lease line items in such Person’s consolidated financial statements pursuant to GAAP for such Test Period resulting from the application of purchase accounting in relation to the Transactions or any acquisition consummated prior to the Closing Date and any Permitted Acquisition or other Investment (including the Argentum Transactions) or the amortization or write-off of any amounts thereof, net of taxes, for such Test Period;

(11) any non-cash compensation charge or expense (including any deferred non-cash compensation expense) for such Test Period, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights and any cash charges or expenses associated with the rollover, acceleration or payout of Equity Interests by, or to, management of the such Person or any of its Restricted Subsidiaries in connection with the Transactions or the Argentum Transactions;

(12) (i) Transaction Expenses incurred during such Test Period and (ii) any fees and expenses incurred during such Test Period, or any amortization thereof for such Test Period, in connection with any acquisition (including the Argentum Transactions but excluding the
Transactions), Investment, disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt or equity instrument (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring costs incurred during such Test Period as a result of any such transaction;

(13) any expenses, charges or losses for such Test Period that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days); and

(14) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses for such Test Period with respect to liability or casualty events or business interruption.

“Consolidated Secured Net Debt” means, as of any date of determination, (a) Consolidated Total Debt either outstanding under the Facilities or that is secured by a Lien on any asset or property of the Borrower or any Restricted Subsidiary as of such date minus (b) up to $125 million of cash and Cash Equivalents and short term investments of the Borrower and its Restricted Subsidiaries as of such date that are not Restricted.

“Consolidated Tax Expense” means, with respect to any Person for any Test Period, the tax expense of such Person and its Restricted Subsidiaries for such Test Period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Total Debt” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries outstanding on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any Permitted Acquisition, the Argentum Acquisitions or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit, obligations in respect of Capitalized Leases and debt obligations evidenced by promissory notes or similar instruments; provided, that Consolidated Total Debt shall (i) include Convertible Indebtedness to the extent of the aggregate principal amount thereof and (ii) not include Indebtedness in respect of,

(a) any Qualified Securitization Financing,

(b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (provided, that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Total Debt until three Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement shall be counted)), and

-20-
f)

(c) obligations under Hedge Agreements.

“Consolidated Working Capital” means, as of any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities.

“continuing” means with respect to any Default or Event of Default that it has not been cured or waived.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Contribution Debt” means Indebtedness of the Borrower and its Subsidiaries in an aggregate outstanding principal amount outstanding on the date of incurrence not to exceed the sum of,

1. the aggregate amount of capital contributions to the Borrower Not Otherwise Applied, and

2. Net Cash Proceeds from Permitted Equity Issuances received by the Borrower, either directly or as a contribution in the form of Qualified Equity Interests of the Borrower,

in each case, during the period from and including the Business Day immediately following the Closing Date through and including the date of such incurrence; provided, that such amount shall not include (a) proceeds of Specified Equity Contributions and (b) proceeds used to increase the Available Amount pursuant to clause (2) of the definition thereof.

“Control” has the meaning specified in the definition of “Affiliate.”

“Conversion/Continuation Notice” means a notice of (a) a conversion of Loans from one Type to another or (b) a continuation of Eurodollar Rate Loans, pursuant to Article II, which, if in writing, shall be substantially in the form of Exhibit A-4.

“Convertible Indebtedness” means Indebtedness of a Loan Party (which may be Guaranteed by other Loan Parties) permitted to be incurred hereunder that is either (a) convertible into common stock of the Borrower or of any direct or indirect parent thereof (or other securities or property following a merger event or other change of the common stock of Borrower) (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock or such other securities) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common stock of the Borrower or of any direct or indirect parent thereof and/or cash (in an amount determined by reference to the price of such common stock). For the avoidance of doubt, the Convertible Notes shall constitute Convertible Indebtedness hereunder.

“Convertible Note Documents” means the Convertible Notes Indenture, the Convertible Notes and all documents entered into in connection therewith.

“Convertible Notes” means the 2.00% convertible senior notes due 2022 issued by the Borrower in an aggregate principal amount of $600,000,000 under the Convertible Notes Indenture.

“Convertible Notes Indenture” means the Indenture, dated as June 30, 2015 between the Borrower and the Convertible Notes Trustee governing the Convertible Notes.
“Convertible Notes Trustee” means Wilmington Trust, National Association, in its capacity as the trustee under the Convertible Note Documents, and its successors and assigns in such capacity.

“Credit Agreement Refinancing Indebtedness” means secured or unsecured Indebtedness of the Borrower or any Restricted Subsidiary in the form of term loans or notes or revolving loans or commitments; provided, that:

1. such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, or refinance, in whole or part, Indebtedness consisting of (a) Term A-1 Loans, (b) Incremental Term Loans, (c) Revolving Commitments or Revolving Loans, or (d) other Credit Agreement Refinancing Indebtedness (collectively, “Refinanced Debt”);

2. such Indebtedness is in an original aggregate principal amount not greater than the principal amount of the Refinanced Debt being exchanged, extended, renewed, replaced or refinanced (plus (a) the amount of all unpaid, accrued, or capitalized interest, penalties and premiums (including tender premiums) and (b) underwriting discounts, fees, commissions, costs and expenses payable with respect to such Credit Agreement Refinancing Indebtedness);

3. the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt, and the final maturity date of such Credit Agreement Refinancing Indebtedness may not be earlier than the final maturity date of the Refinanced Debt; provided, that any unsecured Credit Agreement Refinancing Indebtedness or Credit Agreement Refinancing Indebtedness secured on a junior basis to the Loans will not mature, or have scheduled amortization, prior to the date that is ninety-one (91) days following the Latest Maturity Date;

4. any mandatory or voluntary prepayments (and with respect to any Credit Agreement Refinancing Indebtedness comprising revolving loans, to the extent commitments thereunder are permanently terminated) of:

   a. any Credit Agreement Refinancing Indebtedness that comprises junior lien or unsecured notes or loans may not be made except to the extent that prepayments are (i) permitted hereunder and (ii) to the extent required hereunder or pursuant to the terms of any Credit Agreement Refinancing Indebtedness that is secured on a pari passu basis to the Loans, first made or offered to the Loans and any such Credit Agreement Refinancing Indebtedness that is secured on a pari passu basis to the Loans; and

   b. any Credit Agreement Refinancing Indebtedness that is secured on a pari passu basis with the Loans shall be made on a pro rata basis or less than pro rata basis with the Loans;

5. such Indebtedness is not incurred or guaranteed by any Subsidiary of the Borrower other than a Guarantor;

6. if such Indebtedness is secured:

   a. such Indebtedness is not secured by any assets or property of the Borrower or any Restricted Subsidiary that does not constitute Collateral (subject to customary exceptions for cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender);

-22-
(b) the security agreements relating to such Indebtedness are substantially similar to or the same as the Collateral Documents (as determined in good faith by a Responsible Officer of the Borrower); 

(c) if such Indebtedness is secured on a pari passu basis with the Loans, a Debt Representative acting on behalf of the holders of such Indebtedness has become party to or is otherwise subject to the provisions of an Equal Priority Intercreditor Agreement; and 

(d) if such Indebtedness is secured on a junior basis to the Loans, a Debt Representative, acting on behalf of the holders of such Indebtedness, has become party to or is otherwise subject to the provisions of a Junior Lien Intercreditor Agreement; 

(7) the covenants and events of default applicable to such Indebtedness are substantially identical to, or, taken as a whole, no more favorable to the lenders or holders providing such Indebtedness than, those applicable to such Refinanced Debt, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment; provided, that the Borrower will promptly deliver to the Administrative Agent final copies of the definitive credit documentation relating to such Indebtedness (unless the Borrower is bound by a confidentiality obligation with respect thereto, in which case the Borrower will deliver a reasonably detailed description of the material terms and conditions of such Indebtedness in lieu thereof); provided, that this clause (7) will not apply to:

(a) terms addressed in the preceding clauses (1) through (6),
(b) interest rate, fees, funding discounts and other pricing terms,
(c) redemption, prepayment or other premiums,
(d) optional prepayment terms; and
(e) covenants and other terms applicable only to periods after the Latest Maturity Date at the time of incurrence of such Indebtedness.

Credit Agreement Refinancing Indebtedness will include any Registered Equivalent Notes issued in exchange therefor.

“Cure Expiration Date” has the meaning assigned to such term in Section 8.02.

“Debt Representative” means, with respect to any series of Indebtedness secured by a Lien permitted under Section 7.01(32), Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.
“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans plus (c) 2.0% per annum; provided, that with respect to the outstanding principal amount of any Loan not paid when due, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.05(3)) plus 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

“Defaulting Lender” means, subject to Section 2.19(2), any Lender that:

1. has failed to (a) fund all or any portion of its Loans, including participations in respect of Letters of Credit or Swing Line Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (b) pay to the Administrative Agent, the Issuing Bank, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two (2) Business Days of the date when due;

2. has notified the Borrower, the Administrative Agent, the Issuing Bank or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lenders’ obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (b) pay to the Administrative Agent, the Issuing Bank, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two (2) Business Days of the date when due;

3. has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided, that such Lender shall cease to be a Defaulting Lender pursuant to this clause (3) upon receipt of such written confirmation by the Administrative Agent and the Borrower);

4. is, or has a direct or indirect parent company that is (a) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors or (b) the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other Federal or state regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company; provided, that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender
(or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender; and

(5) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action.

Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (1) through (4) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.19) upon delivery of written notice of such determination to the Borrower, the Issuing Bank, the Swing Line Lender and each Lender.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05(10) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within one hundred eighty (180) days following the consummation of the applicable Disposition).

“Discount Prepayment Accepting Lender” has the meaning assigned to such term in Section 2.07(1)(d)(ii)(2).

“Discount Range” has the meaning assigned to such term in Section 2.07(1)(d)(iii)(1).

“Discount Range Prepayment Amount” has the meaning assigned to such term in Section 2.07(1)(d)(iii)(1).

“Discount Range Prepayment Notice” means a written notice of a Borrower Solicitation of Discount Range Prepayment Offers made pursuant to Section 2.07(1)(d)(iii) substantially in the form of Exhibit M-1.

“Discount Range Prepayment Offer” means the irrevocable written offer by a Lender, substantially in the form of Exhibit M-2, submitted in response to an invitation to submit offers following the Auction Agent’s receipt of a Discount Range Prepayment Notice.

“Discount Range Prepayment Response Date” has the meaning assigned to such term in Section 2.07(1)(d)(iii)(1).

“Discount Range Proration” has the meaning assigned to such term in Section 2.07(1)(d)(iii)(3).

“Discounted Loan Prepayment” has the meaning assigned to such term in Section 2.07(1)(d)(i).

“Discounted Prepayment Determination Date” has the meaning assigned to such term in Section 2.07(1)(d)(iv)(3).

“Discounted Prepayment Effective Date” means in the case of a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer, five (5) Business Days following the Specified Discount Prepayment Response Date, the Discount Range Prepayment Response Date or the Solicited Discounted Prepayment Response Date, as applicable, in accordance with Section 2.07(1)(d)(ii), Section 2.07(1)(d)(iii) or Section 2.07(1)(d)(iv), respectively, unless a shorter period is agreed to between the Borrower and the Auction Agent.

-25-
“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale leaseback transaction and any sale or issuance of Equity Interests in a Restricted Subsidiary) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Disqualified Equity Interests” means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition:

  (1) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and cash collateralization of all other Letters of Credit);

  (2) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part;

  (3) provides for the scheduled payments of dividends in cash; or

  (4) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date of the Loans at the time of issuance.

provided, that if such Equity Interests are issued pursuant to a plan for the benefit of future, current or former employees, directors, or officers of the Borrower or the Restricted Subsidiaries or by any such plan to such employees, directors or officers, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower or the Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s or officer’s termination, death or disability.

“Disqualified Lender” means:

  (1) the bona fide competitors of the Borrower and its Subsidiaries identified in writing by or on behalf of the Borrower to the Lead Arrangers on or prior to the Restatement Effective Date, or from time to time after the Restatement Effective Date to the Administrative Agent,

  (2) those particular banks, financial institutions and other institutional lenders identified in writing by or on behalf of the Borrower to the Lead Arrangers prior to the Restatement Effective Date, and

  (3) any affiliate of the entities described in the preceding clauses (1) (other than any affiliates that are banks, financial institutions, bona fide debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course) or (2), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by the Borrower to the Lead Arrangers on or prior to the Restatement Effective Date, or after the Restatement Effective Date to the Administrative Agent from time to time;
provided, that any Person that is a Lender and subsequently becomes a Disqualified Lender (but was not a Disqualified Lender on the Restatement Effective Date or at the time it became a Lender) shall be deemed to not be a Disqualified Lender hereunder. The list of Disqualified Lenders shall be made available to all Lenders by posting such list to IntraLinks or another similar electronic system.


“Dollar” and “$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Enterprise Transformative Event” means any merger, acquisition or Investment by the Borrower or any Restricted Subsidiary that either (a) is not permitted by the terms of any Loan Document immediately prior to the consummation of such transaction or (b) if permitted by the terms of the Loan Documents immediately prior to the consummation of such transaction, would not provide the Borrower and its Restricted Subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as reasonably determined by the Borrower acting in good faith.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 11.07(2)(c) and (e) (subject to such consents, if any, as may be required under Section 11.07(2)(c)); provided, that neither any Defaulting Lender nor any Disqualified Lender shall be an Eligible Assignee.

“Environmental Claim” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations by any Governmental Authority, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (1) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (2) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means any and all Laws relating to pollution, the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health and safety.
“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its Subsidiaries directly or indirectly resulting from or based upon:

1. any actual or alleged violation of any Environmental Law,
2. the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials,
3. exposure to any Hazardous Materials,
4. the release or threatened release of any Hazardous Materials into the environment or
5. any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“Equal Priority Intercreditor Agreement” means a “pari passu” intercreditor agreement substantially in the form attached hereto as Exhibit K (as the same may be modified in a manner satisfactory to the Administrative Agent), or, if requested by the providers of Indebtedness permitted hereunder to be secured by the Collateral on a pari passu basis to the Obligations under the Loan Documents, another “pari passu” intercreditor agreement reasonably satisfactory to the Administrative Agent. Upon the request of the Borrower, the Administrative Agent and Collateral Agent will execute and deliver an Equal Priority Intercreditor Agreement with the Loan Parties and one or more Debt Representatives for Indebtedness permitted hereunder that is permitted to be secured by the Collateral on a pari passu basis with the Obligations under the Loan Documents.

“Equity Interests” means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in, including any limited or general partnership interest and any limited liability company membership interest) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities); provided, that any Convertible Indebtedness and any Permitted Warrant Transaction, in each case, will not constitute Equity Interests of the Borrower.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means:

1. a Reportable Event with respect to a Pension Plan;
2. a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial
employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA;

(3) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability or written notification that a Multiemployer Plan is “insolvent” (within the meaning of Section 4245 of ERISA) or is “in reorganization” (within the meaning of Section 4241 of ERISA) or in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA);

(4) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan;

(5) the imposition of any liability under Title IV of ERISA, other than for the payment of PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates;

(6) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan, whether or not waived or the failure to make a required contribution to a Multiemployer Plan;

(7) the application for a minimum funding waiver under Section 302(c) of ERISA with respect to a Pension Plan;

(8) the imposition of a lien under Section 303(k) of ERISA with respect to any Pension Plan; or

(9) a determination that any Pension Plan is in “at-risk” status (within the meaning of Section 303 of ERISA).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurodollar Rate” means for any Interest Period as to any Eurodollar Rate Loan, (i) the rate per annum determined by the Administrative Agent to be the offered rate which appears on the page of the Reuters Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) (the “LIBO Rate”) for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time), two Business Days prior to the commencement of such Interest Period or (ii) in the event the rate referenced in the preceding clause (i) does not appear on such page or service or if such page or service shall cease to be available, the rate determined by the Administrative Agent to be the offered rate on such other page or other service which displays the LIBOR Rate for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period; provided that if LIBO Rates are quoted under either of the preceding clauses (i) or (ii), but there is no such quotation for the Interest Period elected, the LIBO Rate shall be equal to the Interpolated Rate; and provided, that if any
such rate determined pursuant to the preceding clauses (i) or (ii) is below zero, the Eurodollar Rate will be deemed to be zero.

“Eurodollar Rate Loan” means a Loan that bears interest at a rate based on the definition of “Eurodollar Rate.”

“Event of Default” has the meaning specified in Section 9.01.


“Excluded Asset” has the meaning assigned thereto in the Security Agreement.

“Excluded Subsidiary” means:

1. any Subsidiary that is not a wholly owned Subsidiary of the Borrower or a Guarantor,
2. any direct or indirect Foreign Subsidiary of the Borrower,
3. any Domestic Subsidiary that is a CFC Holdco,
4. any Domestic Subsidiary that is a direct or indirect Subsidiary of a CFC,
5. any Subsidiary that is prohibited or restricted by applicable Law or by a binding contractual obligation from providing a Guaranty or if such Guaranty would require governmental (including regulatory) or third party (other than a Loan Party or an Affiliate of a Loan Party) consent, approval, license or authorization, in each case that has not been obtained, that such contractual obligation (including any such governmental (including regulatory) or third party consent, approval, license or authorization) (x) is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition and (y) exists on the Closing Date or, if later, the date such Subsidiary is acquired,
6. any special purpose securitization vehicle (or similar entity) including any Securitization Subsidiary created pursuant to a transaction permitted under this Agreement,
7. any Subsidiary that is a not-for-profit organization,
8. any Captive Insurance Subsidiary,
9. any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent (confirmed in writing by notice to the Borrower), the cost or other consequences (including any adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom, and
10. each Unrestricted Subsidiary.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) or any other applicable law by
virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to an Agent or a Lender or required to be withheld or deducted from a payment to an Agent or a Lender: (a) Taxes imposed on or measured by net income (however denominated), franchise or similar Taxes imposed in lieu of net income Taxes, and branch profits Taxes, in each case that are (i) imposed as a result of the Agent or Lender, as applicable, being organized under the laws of, or having its principal office (or, in the case of any Lender, its applicable lending office) located in, the jurisdiction imposing such Tax (or any political subdivision thereof), or (ii) imposed by reason of any other present or former connection between such Agent or such Lender and the jurisdiction imposing such Tax, other than a connection arising from such Agent or such Lender having executed, entered into or delivered, receiving any payment under, being or having been a party to, performing its obligations under, or enforcing, receiving or perfecting a security interest under, or engaging in any other transaction pursuant, to any Loan Document, or selling or assigning an interest in any Loan or Loan Document, (b) any Taxes imposed as a result of the failure of such Agent or such Lender, as applicable, to comply with the provisions of Sections 3.01(2), 3.01(3) or 3.01(4), (c) any Taxes imposed under FATCA and (d) any U.S. federal withholding Taxes imposed on amounts payable to or for the account of any Agent or Lender pursuant to a Law in effect on the date on which such Agent or Lender becomes the Agent or acquires interest in the Loan (other than with respect to an assignment at the request of the Borrower) (or such Lender changes its Lending Office), except in each case to the extent that amounts with respect to such Taxes were payable under Section 3.01 to such Agent’s or Lender’s assigns immediately before such Agent or Lender became a party hereto (or to such Lender immediately before it changed its Lending Office).

“Exclusive License” means, with respect to any drug or pharmaceutical product, any license to develop, commercialize, sell, market and promote such drug or pharmaceutical product and which provides for exclusive rights to develop, use, commercialize, sell, market, import and promote such drug or product within the United States; provided that an “Exclusive License” shall not include (a) any license to distribute any such drug or product on an exclusive basis within any particular geographic region or territory, (b) any licenses, which may be exclusive, to manufacture any such drug or product, and (c) any license to manufacture, use, offer for sale or sell any authorized generic version of such drug or product. “Exclusively License” shall have the correlative meaning.

“Extended Commitments” means, collectively, Extended Revolving Commitments and Extended Term Commitments.

“Extended Loans” means, collectively, Extended Revolving Loans and Extended Term Loans.

“Extended Revolving Commitments” means the Revolving Commitments held by an Extending Lender.

“Extended Revolving Loans” means the Revolving Loans made pursuant to Extended Revolving Commitments.

“Extended Term Commitments” means the Term Loan Commitments held by an Extending Lender.
“**Extended Term Loans**” means the Term Loans made pursuant to Extended Term Commitments.

“**Extending Lender**” means each Lender accepting an Extension Offer.

“**Extension**” has the meaning specified in Section 2.18(1).

“**Extension Amendment**” has the meaning specified in Section 2.18(2).

“**Extension Offer**” has the meaning specified in Section 2.18(1).

“**Facility**” means the Revolving Commitment, the Term A-1 Loans, the Swing Line Loans, any Extended Term Loans, any Extended Revolving Commitments and Extended Revolving Loans, any Incremental Term Loans, any Refinancing Term Loans or any Refinancing Revolving Loans, as the context may require.

“**FATCA**” means Sections 1471 through 1474 (including any agreements entered into pursuant to Section 1471(b)(i)) of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any intergovernmental agreements (together with any Law or other official guidance implementing such agreements) relating to the foregoing.

“**Federal Funds Rate**” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent. If the Federal Funds Rate is less than zero, it shall be deemed to be zero hereunder.

“**Fee Letter**” means the fee letter, dated August 4, 2015, by and among Impax and RBC, as amended, restated, modified or supplemented from time to time in accordance with the terms thereof.

“**Financial Covenant Event of Default**” has the meaning specified in Section 9.01(2).

“**Fixed Incremental Amount**” means, as of the date of measurement, (a) $200,000,000 minus (b) the aggregate principal amount of all Incremental Equivalent Debt outstanding on such date, except such Incremental Equivalent Debt incurred with reference to the Ratio Amount.

“**Flood Insurance Laws**” means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor thereto.

“**Foreign Casualty Event**” has the meaning specified in Section 2.07(2)(f).

“**Foreign Disposition**” has the meaning specified in Section 2.07(2)(f).
“Foreign Lender” has the meaning specified in Section 3.01(3)(b).

“Foreign Subsidiary” means any direct or indirect Restricted Subsidiary of the Borrower that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to the Issuing Bank, such Defaulting Lender’s Pro Rata Share of the outstanding Letters of Credit Obligations other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Pro Rata Share of the outstanding Obligations with respect to Swing Line Loans extended by the Swing Line Lender other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

“Funded Debt” means all Indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“GAAP” means generally accepted accounting principles in the United States, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, the accounting for operating leases and capital leases under GAAP as in effect on the Closing Date (including Accounting Standards Codification 840) shall apply for the purposes of determining compliance with the provisions of this Agreement, including the definitions of Capitalized Lease Obligation and Capitalized Leases.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 11.07(7).

“Guarantee” means, as to any Person, without duplication:
(1) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect,

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation,

(b) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation,

(c) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or

(d) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or

(2) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien);

provided, that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantor” has the meaning specified in the definition of “Collateral and Guarantee Requirement.” The Borrower may, in its sole discretion, cause any Restricted Subsidiary that is not required to be a Guarantor to Guarantee the Obligations by causing such Restricted Subsidiary to execute a supplement to the Guaranty in substantially the form attached thereto, and any such Restricted Subsidiary shall be a Guarantor hereunder for all purposes.

“Guaranty” means (a) the guaranty made by the Guarantors in favor of the Administrative Agent on behalf of the Secured Parties pursuant to clause (2) of the definition of “Collateral and Guarantee Requirement,” substantially in the form of Exhibit E and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

“Hazardous Materials” means chemicals, materials, substances or wastes, all hazardous or toxic substances, defined, listed, classified or regulated as, or included in the definition of, “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “contaminants” or “pollutants,” or words of
similar import, under any Environmental Law, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, regulated medical or pharmaceutical waste, radon gas and urea formaldehyde.

“Health Care Laws” means the federal Anti-kickback Statute (42 U.S.C. § 1320a-7(b)(b)), the Anti-Inducement Law (42 U.S.C. § 1320a-7(a)(5)), the civil False Claims Act (31 U.S.C. §§ 3729 et seq.), the administrative False Claims Law (42 U.S.C. § 1320a-7(b)(a)), the civil monetary penalty laws (42 U.S.C. § 1320a-7a), the federal Food, Drug & Cosmetic Act (21 U.S.C. §§ 301 et seq.), the federal Controlled Substances Act (21 U.S.C. § 801 et seq.), HIPAA, the Medicaid Drug Rebate Program (42 U.S.C. § 1396r-8), Medicare average sales price reporting (42 U.S.C. § 1395w-3a), the Public Health Service Act (42 U.S.C. § 256b), the federal TRICARE program (10 U.S.C. §1071 et seq.), the VA Federal Supply Schedule (38 U.S.C. § 8126), and the regulations promulgated pursuant to such laws, each as amended from time to time.

“Hedge Agreement” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement. Notwithstanding the foregoing, agreements relating to any Permitted Convertible Indebtedness Call Transaction (and the obligations and transactions relating thereto) will not constitute a Hedge Agreement.

“Hedge Bank” means any Person that is an Agent, a Lender, a Lead Arranger, a Lead Bookrunner or an Affiliate of any of the foregoing on the Closing Date or the Restatement Effective Date or at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger, a Lead Bookrunner or an Affiliate of any of the foregoing; provided, at the time of entering into a Secured Hedge Agreement, no Hedge Bank shall be a Defaulting Lender.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, and the regulations promulgated thereunder.

“Identified Participating Lenders” has the meaning specified in Section 2.07(1)(d)(iii)(3).

“Identified Qualifying Lenders” has the meaning specified in Section 2.07(1)(d)(iv)(3).

“IFRS” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.
“Impax” has the meaning specified in the introductory paragraph to this Agreement.

“Included Products” means any and all drug products that, as of the Closing Date or the Restatement Effective Date, the Borrower or any of the Subsidiaries sells, offers for sale, imports, promotes, markets, distributes or otherwise commercializes (or possesses the rights to sell, offer for sale, import, promote, market, distribute or otherwise commercialize) anywhere.

“Incremental Amendment” has the meaning specified in Section 2.16(5).

“Incremental Amount” has the meaning specified in Section 2.16(3).

“Incremental Equivalent Debt” means Indebtedness of the Borrower and its Restricted Subsidiaries in the form of term loans or notes; provided, that

- the aggregate principal amount of all Incremental Equivalent Debt on any date such Indebtedness is incurred shall not, together with any Incremental Revolving Facilities or Incremental Term Facilities then outstanding, exceed the Incremental Amount;
- any Incremental Equivalent Debt in the form of notes that is unsecured shall not mature, nor shall it be subject to any scheduled repayment, mandatory repayment or redemption or sinking fund obligations, prior to, at the time of incurrence, 91 days following the Latest Maturity Date (other than, in each case, customary offers or obligations to repurchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights after an event of default);
- any Incremental Equivalent Debt in the form of secured term loans shall be subject to the Specified Term Loan Requirements;
- any Incremental Equivalent Debt shall not be incurred or guaranteed by any Person other than the Guarantors;
- [reserved];
- if such Incremental Equivalent Debt is secured:
  (a) such Incremental Equivalent Debt is not secured by any assets or property that does not constitute Collateral (subject to customary exceptions for cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender);
  (b) the security agreements relating to such Incremental Equivalent Debt are substantially similar to or the same as the Collateral Documents (as determined in good faith by a Responsible Officer of the Borrower);
  (c) if such Incremental Equivalent Debt is secured on a pari passu basis with the Term Loans, a Debt Representative acting on behalf of the holders of such Incremental Equivalent Debt has become party to or is otherwise subject to the provisions of an Equal Priority Intercreditor Agreement; and
  (d) if such Incremental Equivalent Debt is secured on a junior basis to the Term Loans, a Debt Representative, acting on behalf of the holders of such Incremental
Equivalent Debt, has become party to or is otherwise subject to the provisions of a Junior Lien Intercreditor Agreement.

provided, further, that Restricted Subsidiaries that are Non-Loan Parties may not incur Indebtedness pursuant to this definition or the definition of Permitted Ratio Debt if, after giving Pro Forma Effect to such incurrence or issuance, the aggregate amount of Indebtedness of Non-Loan Parties incurred or issued pursuant to this paragraph then outstanding would exceed the greater of (a) $25,000,000 and (b) 10% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination at such time.

The Borrower shall determine whether all or any portion of any Incremental Equivalent Debt is being incurred pursuant to the Fixed Incremental Amount or the Ratio Amount; provided, that unless the Borrower elects otherwise, Incremental Equivalent Debt will be deemed to be incurred (i) first against the Ratio Amount to the extent permitted and (ii) thereafter against the Fixed Incremental Amount. For the avoidance of doubt, if the Borrower incurs Incremental Equivalent Debt under the Fixed Incremental Amount on the same date that it incurs indebtedness under the Ratio Amount, then the Senior Secured Net Leverage Ratio or Total Net Leverage Ratio will be calculated with respect to such incurrence under the Ratio Amount without regard to any incurrence of indebtedness under the Fixed Incremental Amount.

“Incremental Facility” has the meaning specified in Section 2.16(1).

“Incremental Loans” has the meaning specified in Section 2.16(1).

“Incremental Revolving Commitment” means the commitment of a Lender to make or otherwise fund an Incremental Revolving Loan and “Incremental Revolving Commitments” means such commitments of all Lenders in the aggregate.

“Incremental Revolving Facilities” has the meaning specified in Section 2.16(1).

“Incremental Revolving Facility Lender” has the meaning specified in Section 2.16(9)(a).

“Incremental Revolving Loans” has the meaning specified in Section 2.16(1).

“Incremental Term Facilities” has the meaning specified in Section 2.16(1).

“Incremental Term Loan Commitment” means the commitment of a Lender to make or otherwise fund an Incremental Term Loan and “Incremental Term Loan Commitments” means such commitments of all Lenders in the aggregate.

“Incremental Term Loan Exposure” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Incremental Term Loans of such Lenders; provided, at any time prior to the making of the Incremental Term Loans, the Incremental Term Loan Exposure of any Lender shall be equal to such Lender’s Incremental Term Loan Commitment.

“Incremental Term Loans” has the meaning specified in Section 2.16(1).

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

1. all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
(2) the maximum amount (after giving effect to any prior drawings or reductions that may have been reimbursed) of all letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(3) net obligations of such Person under any Hedge Agreement;

(4) all obligations of such Person to pay the deferred purchase price of property or services (other than (a) trade accounts and accrued expenses payable in the ordinary course of business, (b) any earn-out obligation until such obligation is not paid after becoming due and payable and (c) accruals for payroll and other liabilities accrued in the ordinary course of business);

(5) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(6) all Attributable Indebtedness;

(7) all obligations of such Person in respect of Disqualified Equity Interests; and

(8) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (a) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt and (b) in the case of Restricted Subsidiaries that are not Loan Parties, exclude loans and advances made by Loan Parties having a term not exceeding 364 days (inclusive of any roll over or extensions of terms) and made in the ordinary course of business solely to the extent that such intercompany loans and advances are evidenced by one or more notes in form and substance reasonably satisfactory to the Administrative Agent and pledged as Collateral (it being understood that all such loans and advances made to wholly owned Restricted Subsidiaries shall be subject to the Intercompany Subordination Agreement) (such loans and advances, “Short Term Advances”). The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (5) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value (as determined by such Person in good faith) of the property encumbered thereby as determined by such Person in good faith.

“Indemnified Liabilities” has the meaning specified in Section 11.05.

“Indemnified Taxes” means (a) Taxes, other than any Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under a Loan Document, and (b) to the extent not otherwise described in (a), Other Taxes.

“Indemnitees” has the meaning specified in Section 11.05.
“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and its Affiliates.

“Information” has the meaning specified in Section 11.08.

“Initial Revolving Commitments” means the Revolving Commitments as of the Closing Date.

“Initial Term A-1 Loans” means the Term A-1 Loans made by the Lenders on the Restatement Effective Date to the Borrower pursuant to Section 2.01(1).

“Initial Term Loans” means the Initial Term A-1 Loans.

“Intellectual Property” has the meaning specified in the Security Agreement.

“Intellectual Property Security Agreements” has the meaning specified in the Security Agreement.

“Intercompany Subordination Agreement” means an agreement executed by each Restricted Subsidiary of the Borrower, in substantially the form of Exhibit H.

“Intercreditor Agreements” means any Junior Lien Intercreditor Agreement and/or Equal Priority Intercreditor Agreement then in effect.

“Interest Payment Date” means, (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Eurodollar Rate Loan and the applicable Maturity Date; provided, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the applicable Maturity Date.

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Committed Loan Notice; provided, that:

(1) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

(2) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(3) no Interest Period shall extend beyond the applicable Maturity Date.
“Interpolated Rate” means, in relation to the LIBO Rate, the rate which results from interpolating on a linear basis between: (a) the applicable LIBO Rate for the longest period (for which that LIBO Rate is available) which is less than the Interest Period of that Loan; and (b) the applicable LIBO Rate for the shortest period (for which that LIBO Rate is available) which exceeds the Interest Period of that Loan, each as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period of that Loan.

“Investment” means, as to any Person:

1. the purchase or other acquisition (including without limitation by merger or otherwise) of Equity Interests or debt or other securities of another Person,

2. a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, but excluding any Short Term Advances or

3. the purchase or other acquisition (in one transaction or a series of transactions, including without limitation by merger or otherwise) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person.

For purposes of covenant compliance, the amount of any Investment at any time shall be the amount actually invested (measured at the time made), without adjustment for subsequent changes in the value of such Investment, net of any return representing a return of capital with respect to such Investment. For the avoidance of doubt, acquisitions of or licenses under intellectual property or related tangible assets used or useful in a business permitted under Section 7.07 do not constitute Investments.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB - (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

“IRS” means Internal Revenue Service of the United States.

“Issuance Notice” means an Issuance Notice in respect of standby letters of credit and financial letters of credit, in each case, substantially in the form of Exhibit A-2.

“Issuing Bank” means (1) RBC and (2) any other Revolving Lender that becomes an Issuing Bank in accordance herewith.

“Joint Venture” means (a) any Person which would constitute an “equity method investee” of the Borrower or any of the Restricted Subsidiaries and (b) any Person in whom the Borrower or any of the Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

“Judgment Currency” has the meaning specified in Section 11.18.

“Junior Financing” means other Indebtedness of a Loan Party that is unsecured, secured by the Collateral on a junior basis to the Obligations or subordinated in right of payment to the Obligations, other than, in each case, Indebtedness among the Loan Parties; provided, that any Convertible Indebtedness will not constitute Junior Financing of the Borrower.
“Junior Financing Documentation” means any documentation governing any Junior Financing.

“Junior Lien Intercreditor Agreement” means a “junior lien” intercreditor agreement substantially in the form of Exhibit L attached hereto (as the same may be modified in a manner satisfactory to the Administrative Agent), or, if reasonably requested by the providers of Indebtedness permitted hereunder to be secured by the Collateral on a junior basis to the Obligations under the Loan Documents, another lien subordination arrangement reasonably satisfactory to the Administrative Agent. Upon the request of the Borrower, the Administrative Agent and Collateral Agent will execute and deliver a Junior Lien Intercreditor Agreement with the Loan Parties and one or more Debt Representatives for Indebtedness permitted hereunder that is permitted to be secured by the Collateral on a junior basis to the Obligations under the Loan Documents.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Refinancing Term Loan, any Refinancing Revolving Loan, any Extended Term Loan or any Extended Revolving Commitment, in each case, as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“L/C Fee” has the mean specified in Section 2.11(2)(b).

“LCA Election” has the meaning specified in Section 1.08(5).

“LCA Test Date” has the meaning specified in Section 1.08(5).

“Lead Arrangers” means RBC, Credit Suisse Securities (USA) LLC, Fifth Third Bank and BMO Capital Markets Corp., in each case acting in their respective capacities as joint lead arrangers in respect of the Facilities.

“Lead Bookrunners” means RBC, Credit Suisse Securities (USA) LLC, Fifth Third Bank and BMO Capital Markets Corp., in each case acting in their respective capacities as joint lead bookrunners in respect of the Facilities.

“Lender” has the meaning specified in the introductory paragraph to this Agreement and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment or an Incremental Amendment, as the case may be, and to the extent such Refinancing Amendment or Incremental Amendment shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Restatement Effective Date, Schedule 2.01 sets forth the name of each Lender. Unless the context otherwise requires, the term “Lenders” includes the Issuing Bank and the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.
“Letter of Credit” means a letter of credit issued or to be issued by the Issuing Bank pursuant to this Agreement.

“Letter of Credit Advance” means, as to any Revolving Lender, such Lender’s funding of its participation in any Letter of Credit Borrowing in accordance with its Pro Rata Share.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the Issuing Bank, together with an Issuance Notice.

“Letter of Credit Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed by the Borrower on the date when made or refinanced as a Revolving Loan Borrowing.

“Letter of Credit Documents” means, as to any Letter of Credit, each Letter of Credit Application and any other document, agreement and instrument entered into by the Issuing Bank and the Borrower or in favor of the Issuing Bank and relating to such Letter of Credit.

“Letter of Credit Expiration Date” means the day that is five Business Days prior to the Revolving Commitment Termination Date (or, if such day is not a Business Day, the immediately preceding Business Day).

“Letter of Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or the extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“Letter of Credit Obligations” means, at any time, the aggregate of all liabilities at such time of any Loan Party to the Issuing Bank with respect to Letters of Credit, whether or not any such liability is contingent, including, without duplication, the sum of (a) the Reimbursement Obligations at such time and (b) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding.

“Letter of Credit Sublimit” means $12,500,000.

“Letter of Credit Usage” means, as of any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (ii) the aggregate amount of all Reimbursement Obligations outstanding at such time.

“LIBO Rate” has the meaning specified in the definition of “Eurodollar Rate.”

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing); provided, that in no event shall an operating lease in and of itself be deemed a Lien.

“Limited Condition Acquisition” means any Permitted Acquisition or other Investment permitted hereunder by the Borrower or one or more of its Restricted Subsidiaries whose consummation is not conditioned on the availability of, or on obtaining, third party financing.
“Loan” means a Revolving Loan, a Term Loan, an Incremental Term Loan and a Swing Line Loan made by a Lender to the Borrower under Article II (including Section 2.16).

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment or Extension Amendment, (d) the Guaranty, (e) the Collateral Documents, (f) the Intercreditor Agreements (if any), (g) the Intercompany Subordination Agreement, (h) the Fee Letter and (i) the Restatement Agreement.

“Loan Parties” means, collectively, the Borrower and the Guarantors.

“Margin Stock” has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

“Master Agreement” has the meaning specified in the definition of “Hedge Agreement.”

“Material Adverse Effect” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Lenders, the Collateral Agent or the Administrative Agent under any Loan Document.

“Material Domestic Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Domestic Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of Total Assets at such date or (b) whose gross revenues for such Test Period (when taken together with the gross revenues of the Subsidiaries of such Domestic Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; provided, that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clause (a) or (b) comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiaries at the last day of the most recent Test Period) 5.0% of Total Assets of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the gross revenues of the Subsidiaries of such Domestic Subsidiaries for such Test Period) 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries for such Test Period, then the Borrower shall, not later than sixty (60) days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as “Material Domestic Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 with respect to any such Subsidiaries. At all times prior to the delivery of the aforementioned financial statements, such determinations shall be made based on the Pro Forma Financial Statements.

“Material Foreign Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of Total
Assets at such date or (b) whose gross revenues for such Test Period (when taken together with the gross revenues of the Subsidiaries of such Foreign Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP. At all times prior to the delivery of the aforementioned financial statements, such determinations shall be made based on the Pro Forma Financial Statements; provided, that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), Foreign Subsidiaries that are not Material Foreign Subsidiaries comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiaries at the last day of the most recent Test Period) 5.0% of Total Assets of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the gross revenues of the Subsidiaries of such Foreign Subsidiaries for such Test Period) 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries for such Test Period, then the Borrower shall, not later than sixty (60) days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), designate in writing to the Administrative Agent one or more of such Foreign Subsidiaries as “Material Foreign Subsidiaries” to the extent required such that the foregoing condition ceases to be true. At all times prior to the delivery of the aforementioned financial statements, such determinations shall be made based on the Pro Forma Financial Statements.

“Material Real Property” means any real property owned by the Borrower or any Restricted Subsidiary that is a Loan Party (or owned by any Person required to become a Loan Party hereunder) with a fair market value (determined in good faith by the Borrower) in excess of $6,250,000.

“Material Subsidiary” means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

“Maturity Date” means:

1. with respect to the Term A-1 Loans, the date that is the earlier of (a) 5 years after the Restatement Effective Date and (b) the date Term A-1 Loans are declared due and payable pursuant to Section 9.02;

2. with respect to the Revolving Loans, the date that is the earlier of (a) 5 years after the Restatement Effective Date and (b) the date Revolving Loans are declared due and payable pursuant to Section 9.02;

3. with respect to any tranche of Extended Revolving Commitments or Extended Term Loans, the earlier of (a) the final maturity date as specified in the applicable Extension Amendment and (b) the date such tranche of Extended Revolving Commitments or Extended Term Loans are terminated or declared due and payable pursuant to Section 9.02;

4. with respect to any Refinancing Revolving Loans or Refinancing Term Loans, the earlier of (a) the final maturity date as specified in the applicable Refinancing Amendment and (b) the date such Refinancing Revolving Loans or Refinancing Term Loans are declared due and payable pursuant to Section 9.02; and

5. with respect to any Incremental Term Loans, the earlier of (a) the final maturity date as specified in the applicable Incremental Amendment and (b) the date such Incremental Term Loans are declared due and payable pursuant to Section 9.02.
provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“Maximum Rate” has the meaning specified in Section 11.10.

“Minimum Collateral Amount” means, at any time:

(1) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of the Issuing Bank with respect to Letters of Credit issued and outstanding at such time;

(2) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of the Swing Line Lender with respect to Swing Line Loans outstanding at such time; and

(3) otherwise, an amount determined by the Administrative Agent and the Issuing Bank or the Swing Line Lender, as the case may be, in their sole discretion.

“Minority Investment” means any Person other than a Subsidiary in which the Borrower or any Restricted Subsidiary owns any Equity Interests.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Mortgage Policy” or “Mortgage Policies” means an American Land Title Association Lender’s Extended Coverage title insurance policy covering such interest in the Mortgaged Property in an amount at least equal to the fair market value of such Mortgaged Property (or such lesser amount as shall be specified by the Collateral Agent) insuring the Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request and in form and substance reasonably satisfactory to the Collateral Agent.

“Mortgaged Properties” means Material Real Property listed on Schedule 1.01B and each parcel of real property with respect to which a Mortgage is granted pursuant to Section 6.11.

“Mortgages” means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages, including any amendments thereto made by the Loan Parties in favor or for the benefit of the Collateral Agent on behalf of the Lenders in form and substance reasonably satisfactory to the Collateral Agent, and any other mortgages executed and delivered pursuant to Section 6.11.

“Multiemployer Plan” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Cash Proceeds” means:

(1) with respect to the Disposition of any asset by the Borrower or any of the Restricted Subsidiaries or any Casualty Event, the excess, if any, of:

(a) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash and Cash Equivalents received by way
of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the Borrower or any of the Restricted Subsidiaries) minus

(b) the sum of:

(i) the principal amount, premium or penalty, if any, interest, breakage costs and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and required to be repaid in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents and any Credit Agreement Refinancing Indebtedness and other than Other Applicable Indebtedness and Indebtedness secured in the Collateral on a junior basis to the Liens securing the Obligations),

(ii) the out-of-pocket fees and expenses (including attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event and restoration costs following a Casualty Event,

(iii) [Reserved],

(iv) in the case of any Disposition or Casualty Event by a non-wholly owned Restricted Subsidiary, the pro-rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (iv)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and

(v) any reserve for adjustment in respect of (A) the sale price of such asset or assets established in accordance with GAAP and (B) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that “Net Cash Proceeds” shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (v);

provided, that (x) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Cash Proceeds unless such net cash proceeds shall exceed $6,250,000 and (y) no such net cash proceeds shall constitute Net Cash Proceeds under this clause (1) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed $12,500,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (1)); and

(2) with respect to the sale, incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary or any Permitted Equity Issuance by the Borrower, the excess, if any, of:
(a) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over

(b) (i) taxes paid or reasonably estimated to be payable as a result thereof, fees (including investment banking fees, attorneys’ fees, accountants’ fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such sale, incurrence or issuance and (ii) with respect to any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“Non-Bank Certificate” has the meaning specified in Section 3.01(3)(b)(iii).

“Non-Consenting Lender” has the meaning specified in the penultimate paragraph of Section 3.07.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Loan Party” means any Subsidiary of the Borrower that is not a Loan Party.

“Nonrenewal Notice Date” has the meaning specified in Section 2.04(2)(c).

“Not Otherwise Applied” means, with reference to the amount of any capital contributions or Net Cash Proceeds from Permitted Equity Issuances (or issuances of debt securities that have been converted into or exchanged for Qualified Equity Interests) that is proposed to be applied to a particular use or transaction, that such amount was not previously applied in determining the permissibility of a transaction under the Loan Documents where such permissibility was (or may have been) contingent on the receipt or availability of such amount.

“Note” means each of the Revolving Loan Notes, The Term Loan Notes and the Swing Line Note.

“Notice of Intent to Cure” has the meaning specified in Section 6.02(1).

“Obligations” means all:

(1) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed or allowable claims in such proceeding;

(2) obligations of any Loan Party arising under any Secured Hedge Agreement (other than with respect to any Loan Party’s obligations that constitute Excluded Swap Obligations solely with respect to such Loan Party); and
(3) Cash Management Obligations.

Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party and to provide Cash Collateral under any Loan Document.

“OFAC” has the meaning specified in Section 5.17(2).

“Offered Amount” has the meaning specified in Section 2.07(1)(d)(iv)(1).

“Offered Discount” has the meaning specified in Section 2.07(1)(d)(iv)(1).

“OID” means original issue discount.

“Organization Documents” means:

(1) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(2) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(3) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Credit Agreement” means that certain Credit Agreement dated as of March 9, 2015, by and among Impax, as borrower, the guarantors party thereto, the lenders party thereto, and Barclays Bank PLC, as administrative agent, as amended, restated, modified or supplemented from time to time prior to June 29, 2015 in accordance with the terms thereof.

“Other Applicable Indebtedness” has the meaning specified in Section 2.07(2)(b)(i).

“Other Taxes” has the meaning specified in Section 3.01(5).

“Overnight Rate” means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Participant” has the meaning specified in Section 11.07(4).

“Participant Register” has the meaning specified in Section 11.07(5).

“Participating Lender” has the meaning specified in Section 2.07(1)(d)(iii)(2).

“PBGC” means the Pension Benefit Guaranty Corporation.
“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 412 of the Code and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made or has had an obligation to make contributions at any time in the preceding five plan years.

“Perfection Certificate” means a certificate in the form of Exhibit II to the Security Agreement or any other form reasonably approved by the Collateral Agent, as the same shall be supplemented from time to time.

“Permit” means any license, franchise, approval, authorization or clearances issued by a Governmental Authority and required for the conduct of its business of the Borrower or its Subsidiaries as currently conducted.

“Permitted Acquisition” means each other purchase or acquisition of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, a facility or Equity Interests in a Person that, upon the consummation thereof, will be a wholly owned Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation) or, in the case of a purchase or acquisition of assets (other than Equity Interests) or Exclusive License(s), will be owned by the Borrower or a wholly owned Restricted Subsidiary of the Borrower; provided, that with respect to each such purchase or acquisition:

(a) immediately after giving Pro Forma Effect to such purchase or other acquisition, the Borrower is in compliance with the financial covenant set forth in Section 8.01;

(b) the aggregate amount of such purchases and acquisitions made in Persons that do not become Loan Parties or, in the case of a purchase or acquisition of assets (other than Equity Interests), not owned by a Loan Party, shall not exceed, after giving Pro Forma Effect to such purchase or acquisition, the greater of (A) $37,500,000 and (B) 12.5% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination;

(c) immediately before and immediately after giving Pro Forma Effect to any such purchase or other acquisition, no Event of Default shall have occurred and be continuing;

(d) the acquired property, assets, business or Person is in a business permitted under Section 7.07; and

(e) the Borrower shall have delivered to the Administrative Agent, on behalf of the Lenders, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this definition have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition (including calculations in reasonable detail as to satisfaction of the requirements set forth in clause (a) of this definition).

“Permitted Bond Hedge Transaction” means any call or capped call option (or substantively equivalent derivative transaction) on the Borrower’s common stock or the common stock of any direct or indirect parent of the Borrower (or other securities or property following a merger event or other change of the common stock of Borrower or such parent) purchased by the Borrower or any direct or indirect parent thereof in connection with the issuance of any Convertible Indebtedness; provided, that the
purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Borrower from the sale of such Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

“Permitted Convertible Indebtedness Call Transaction” means any Permitted Bond Hedge Transaction and any Permitted Warrant Transaction.

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of the Borrower or any direct or indirect parent of the Borrower.

“Permitted Investment” means any Investment permitted by Section 7.02.

“Permitted Junior Secured Refinancing Debt” means any Credit Agreement Refinancing Indebtedness that is secured by the Collateral on a junior basis with the Loans.

“Permitted Pari Passu Secured Refinancing Debt” means any Credit Agreement Refinancing Indebtedness that is secured by the Collateral on a pari passu basis with the Loans.

“Permitted Ratio Debt” means Indebtedness of the Borrower or any Restricted Subsidiary; provided, that:

1. any Permitted Ratio Debt in the form of notes or that is unsecured shall not mature, nor shall it be subject to any scheduled repayment, mandatory repayment or redemption or sinking fund obligations, prior to, at the time of incurrence, 91 days following the Latest Maturity Date (other than, in each case, (x) customary offers or obligations to repurchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights after an event of default and (y) in the case of Indebtedness that is convertible into shares of the Borrower’s Equity Interests, customary repurchase obligations in connection with a “Fundamental Change” or “Termination of Trading” or any term of similar effect, as defined in any documents relating to such Indebtedness);

2. any Permitted Ratio Debt incurred by any Loan Party in the form of secured term loans shall be subject to the Specified Term Loan Requirements;

3. immediately after giving effect to the issuance, incurrence, or assumption of such Indebtedness, the Total Net Leverage Ratio is no greater than 4.75:1.00, in each case, after giving Pro Forma Effect to the incurrence of such Indebtedness and the use of proceeds thereof and measured as of and for the Test Period immediately preceding the issuance, incurrence or assumption of such Indebtedness for which financial statements are available; and

4. immediately before and after giving effect thereto and to the use of the proceeds thereof no Event of Default shall exist or result therefrom;

provided, further, that Restricted Subsidiaries that are Non-Loan Parties may not incur Indebtedness pursuant to this definition or the definition of Incremental Equivalent Debt if, after giving Pro Forma Effect to such incurrence or issuance, the aggregate amount of Indebtedness of Non-Loan Parties incurred or issued pursuant to this paragraph then outstanding would exceed the greater of (a) $25,000,000 and (b) 10% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination at such time. The proceeds of any Permitted Ratio Debt received shall not (but the application of such proceeds may)
reduce Indebtedness for purposes of determining compliance with the Total Net Leverage Ratio specified in clause (3) of the foregoing sentence.

“Permitted Refinancing” means, with respect to any Person, any modification, refinancing, refunding, replacement, renewal or extension of any Indebtedness of such Person; provided, that:

1. the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, replaced, renewed or extended except by an amount equal to unpaid accrued interest and premium (including tender premiums) thereon, plus reasonable OID and upfront fees plus other fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, replacement, renewal or extension and by an amount equal to any existing commitments unutilized thereunder;

2. other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(4) or Section 7.03(7), such modification, refinancing, refunding, replacement, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended;

3. other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(7), at the time thereof, no Event of Default shall have occurred and be continuing;

4. if such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is Junior Financing:
   a. to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, replacement, renewal, or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended;
   b. to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is secured by Liens, such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or is not secured by any Liens that do not also secure the Obligations;
   c. the extent that such Liens are subordinated to the Liens securing the Obligations, such modification, refinancing, refunding, replacement, renewal or extension is secured by Liens that are subordinated to the Liens securing the Obligations on terms at least as favorable to the Lenders as those contained in the documentation (including any intercreditor or similar agreements) governing the Indebtedness being modified, refinanced, replaced, refunded, replaced, renewed or extended;
   d. the terms and conditions (including, if applicable, as to collateral but excluding as to subordination, pricing, premiums and optional prepayment or redemption provisions) of any such modified, refinanced, refunded, replaced, renewed or extended Indebtedness (taken as a whole) are not more restrictive with respect to the Borrower and
the Restricted Subsidiaries, as reasonably determined by the Borrower in good faith, than the terms and conditions of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended; provided, that a certificate of the Borrower delivered to the Administrative Agent at least five (5) Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material covenants of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has reasonably determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five (5) Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees); and

(e) such modification, refinancing, refunding, replacement, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended and no additional obligors become liable for such Indebtedness; and

(5) in the case of any Permitted Refinancing in respect of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in each case, such Permitted Refinancing is secured only by assets pursuant to one or more security agreements permitted by and subject to an Equal Priority Intercreditor Agreement and/or Junior Lien Intercreditor Agreement, as applicable.

“Permitted Warrant Transaction” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Borrower’s common stock or the common stock of any direct or indirect parent of the Borrower (or other securities or property following a merger event or other change of the common stock of Borrower or such parent) and/or cash (in an amount determined by reference to the price of such common stock) sold by the Borrower or any direct or indirect parent thereof substantially concurrently with any purchase by the Borrower of a related Permitted Bond Hedge Transaction.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), other than a Multiemployer Plan, established or maintained by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

“Platform” has the meaning specified in Section 6.02.

“Pledged Debt” has the meaning specified in the Security Agreement.

“Pledged Equity” has the meaning specified in the Security Agreement.

“Prepayment Date” has the meaning specified in Section 2.07(2)(g).

“Prepayment Notice” means a written notice made pursuant to Section 2.07(1)(a) substantially in the form of Exhibit J.
“Prior Credit Agreement” has the meaning specified in the Preliminary Statements to this Agreement.

“Private Lenders” means Lenders that wish to receive Private-Side Information.

“Private-Side Information” means any information with respect to the Borrower and its Subsidiaries that is not Public-Side Information.

“Pro Forma Basis” and “Pro Forma Effect” mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.08.

“Pro Forma Financial Statements” has the meaning specified in Section 5.05(1)(b).

“Pro Rata Share” means

(a) with respect to all payments, computations and other matters relating to the Term Loan of a given Class of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Loan Exposure of such Class of such Lender at such time and the denominator of which is the aggregate Term Loan Exposure of such Class of all Lenders at such time;

(b) with respect to all payments, computations and other matters relating to the Revolving Commitment or Revolving Loans of any Lender and any Letters of Credit issued or participations purchased therein by any Lender or any participations in any Swing Line Loans purchased by any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Exposure of that Lender and the denominator of which is the aggregate Revolving Exposure of all Lenders at such time; and

(c) with respect to all payments, computations and other matters relating to the Incremental Term Loans of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Incremental Term Loan Exposure of such Lender at such time and the denominator of which is the aggregate Incremental Term Loan Exposure of all Lenders at such time.

“Products in Development” means drug products that, as of the Closing Date or the Restatement Effective Date, (a) are in development or (b) the Borrower or any of the Subsidiaries does not yet sell, offer for sale, import, promote, market, distribute or otherwise commercialize, including assets related to IPX066.

“Public Lenders” means Lenders that do not wish to receive Private-Side Information.

“Public-Side Information” means information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to the Borrower or any of its Subsidiaries or any of their respective securities.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Equity Interests.
“Qualified Securitization Financing” means any Securitization Financing of a Securitization Subsidiary that meets the following conditions:

(a) such Qualified Securitization Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the Securitization Subsidiary,

(b) all sales or contributions of Securitization Assets and related assets to the Securitization Subsidiary are made at fair market value, and

(c) the financing terms, covenants, termination events and other provisions thereof, including any Standard Securitization Undertakings, shall be market terms. The grant of a security interest in any Securitization Assets of the Borrower or any of the Restricted Subsidiaries (other than a Securitization Subsidiary) to secure Indebtedness under this Agreement prior to engaging in any Securitization Financing shall not be deemed a Qualified Securitization Financing.

“Qualifying Lender” has the meaning specified in Section 2.07(1)(d)(iv)(3).

“Quarterly Financial Statements” means the unaudited combined balance sheet as at the end of, and related statements of income and cash flows, of the Borrower for the fiscal quarter ending March 31, 2016.

“Ratio Amount” means an aggregate principal amount that, after giving Pro Forma Effect to the incurrence thereof, in accordance with Section 1.08 (assuming, in the case of any Incremental Revolving Commitments, a full drawing of such Revolving Commitments and excluding the cash proceeds to the Borrower therefrom), would not result in (x) the Senior Secured Net Leverage Ratio being greater than 2.50 to 1.00 or (y) the Total Net Leverage Ratio being greater than 4.75 to 1.00.

“RBC” means Royal Bank of Canada.

“Reference Date” has the meaning specified in the definition of “Available Amount.”

“Refinanced Debt” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“Refinanced Loans” has the meaning specified in Section 11.01.

“Refinancing Amendment” means an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Credit Agreement Refinancing Indebtedness being incurred pursuant thereto, in accordance with Section 2.17.

“Refinancing Commitments” means any Refinancing Term Commitments or Refinancing Revolving Commitments.

“Refinancing Loans” means any Refinancing Term Loans or Refinancing Revolving Loans.

“Refinancing Revolving Commitments” means one or more Classes of Revolving Loan commitments hereunder that result from a Refinancing Amendment.
“**Refinancing Revolving Loans**” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“**Refinancing Term Commitments**” means one or more Classes of Term Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Term Loans**” means one or more Classes of Term Loans that result from a Refinancing Amendment.

“**Refunded Swing Line Loans**” has the meaning specified in Section 2.03(3)(a).

“**Register**” has the meaning specified in Section 11.07(3).

“**Registered Equivalent Notes**” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“**Reimbursement Obligations**” has the meaning specified in Section 2.04(3)(a).

“**Related Indemnified Person**” of an Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers, or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, controlling person or such controlled affiliate; provided, that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Facility.

“**Relevant Four Fiscal Quarter Period**” means, with respect to any requested Specified Equity Contribution, the four-fiscal quarter period ending on (and including) the fiscal quarter in which Consolidated Adjusted EBITDA will be increased as a result of such Specified Equity Contribution.

“**Replacement Loans**” has the meaning specified in Section 11.01.

“**Reportable Event**” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived.

“**Required Facility Lenders**” means, with respect to any Facility (other than the Revolving Loans) on any date of determination, Lenders having or holding more than 50% of the sum of (i) the aggregate principal amount of outstanding Loans under such Facility and (ii) the aggregate unused Commitments under such Facility; provided, that the portion of outstanding Loans and the unused Commitments of such Facility, as applicable, held or deemed held by a Defaulting Lender shall be excluded for purposes of making a determination of Required Facility Lenders.

“**Required Lenders**” means, as of any date of determination, Lenders having or holding more than 50% of the sum of the (a) the aggregate principal amount of outstanding Term Loans and (b) the aggregate Revolving Exposure of all Lenders; provided, that the aggregate Term Loan Exposure and Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.
“Required Revolving Lenders” means, as of any date of determination, Lenders having or holding more than 50% of the aggregate Revolving Exposure of all Lenders; provided, that the Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Responsible Officer” means the chief executive officer, president, senior vice president, senior vice president (finance), vice president, chief financial officer, treasurer, manager of treasury activities or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date or the Restatement Effective Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“Restatement Agreement” means that certain Restatement Agreement, dated as of August 3, 2016, among the Borrower, the Guarantors, the Administrative Agent and the Lenders party thereto.

“Restatement Effective Date” means the “Restatement Effective Date” under and as defined in the Restatement Agreement.

“Restricted” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents (i) appear (or would be required to appear) as “restricted” on a consolidated balance sheet of the Borrower or such Restricted Subsidiary (unless such appearance is related to the Loan Documents (or the Liens created thereunder)) or (ii) are subject to any Lien (other than nonconsensual Liens permitted by Section 7.01 and Liens permitted by Section 7.01(1), (5)(a)(ii), (6), (16), (17), (18)(a), (18)(b), (22), (24), (25), (26), (27), (29), (30), (31), (32) and (33)) in favor of any person other than the Collateral Agent for the benefit of the Secured Parties.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of the Borrower or any of the Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to the Borrower’s stockholders, partners or members (or the equivalent Persons thereof); provided that any payment(s) of principal (not in excess of the stated principal amount thereof), interest, fees, reimbursement obligations, charges, costs, expenses, indemnities and other amounts in respect of Convertible Indebtedness will not constitute a Restricted Payment; provided further that notwithstanding anything herein to the contrary, any payment in cash included in the settlement amount due upon conversion in excess of the stated principal amount of any Convertible Indebtedness shall constitute a Restricted Payment for all purposes hereunder.

“Restricted Subsidiary” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“Revolving Commitment” means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit and Swing Line Loans hereunder and “Revolving Commitments” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Revolving Commitment, if any, is set forth on Schedule 2.01 under the caption “Revolving Commitment” or in the applicable Assignment and Assumption, subject to any increase, adjustment or
reduction pursuant to the terms and conditions hereof including Section 2.16. The aggregate amount of the Revolving Commitments as of the Restatement Effective Date is $200,000,000.

“Revolving Commitment Period” means the period from the Closing Date to but excluding the Revolving Commitment Termination Date.

“Revolving Commitment Termination Date” means the earliest to occur of (a) August 3, 2021, (b) the date the Revolving Commitments, including Revolving Commitments in respect of Letters of Credit and Swing Line Loans, are permanently reduced to zero pursuant to Section 2.08, and (c) the date of the termination of the Revolving Commitments pursuant to Section 9.02.

“Revolving Exposure” means, with respect to any Lender as of any date of determination, (a) prior to the termination of the Revolving Commitments, that Lender’s Revolving Commitment; and (b) after the termination of the Revolving Commitments, the sum of

(i) the aggregate outstanding principal amount of the Revolving Loans of that Lender,
(ii) in the case of the Issuing Bank, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit),
(iii) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit,
(iv) in the case of the Swing Line Lender, the aggregate outstanding principal amount of all Swing Line Loans (net of any participations therein by other Lenders), and
(v) the aggregate amount of all participations therein by that Lender in any outstanding Swing Line Loans.

“Revolving Lender” means a Lender having a Revolving Commitment.

“Revolving Loan Note” means a promissory note in the form of Exhibit B-1, as it may be amended, restated, supplemented or otherwise modified from time to time.

“Revolving Loans” has the meaning specified in Section 2.02(1).

“S&P” means S&P Global Ratings and any successor thereto.

“Same Day Funds” means disbursements and payments in immediately available funds.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Secured Hedge Agreement” means any Hedge Agreement permitted under Section 7.03(8) that is entered into by and between any Loan Party and any Hedge Bank; and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, the Lead Arrangers, each Issuing Bank, each Hedge Bank, each Cash Management Bank, the
Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 10.01(2).

“Securities Act” means the Securities Act of 1933, as amended.

“Securitization Assets” means the accounts receivable, royalty or other revenue streams and other rights to payment (including with respect to rights of payment pursuant to the terms of Joint Ventures) subject to a Qualified Securitization Financing and the proceeds thereof.

“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Securitization Subsidiary in connection with any Qualified Securitization Financing.

“Securitization Financing” means any transaction or series of transactions that may be entered into by the Borrower or any of its Subsidiaries pursuant to which the Borrower or any of its Subsidiaries may sell, convey or otherwise transfer to (1) a Securitization Subsidiary (in the case of a transfer by the Borrower or any of its Subsidiaries) or (2) any other Person (in the case of a transfer by a Securitization Subsidiary), or may grant a security interest in, any Securitization Assets of the Borrower or any of its Subsidiaries, and any assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving Securitization Assets.

“Securitization Repurchase Obligation” means any obligation of a seller of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as a result of a breach of a Standard Securitization Undertaking, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“Securitization Subsidiary” means a wholly owned Subsidiary of the Borrower (or another Person formed for the purposes of engaging in a Qualified Securitization Financing in which the Borrower or any Subsidiary of the Borrower makes an Investment and to which the Borrower or any Subsidiary of the Borrower transfers Securitization Assets and related assets) that engages in no activities other than in connection with the financing of Securitization Assets of the Borrower or its Subsidiaries, all proceeds thereof and all rights (contingent and other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the board of directors of the Borrower or such other Person (as provided below) as a Securitization Subsidiary and

(1) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which

(a) is guaranteed by the Borrower or any Subsidiary of the Borrower, other than another Securitization Subsidiary (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings),

(b) is recourse to or obligates the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, in any way other than pursuant to Standard Securitization Undertakings, or
(c) subjects any property or asset of the Borrower or any Subsidiary of the Borrower, other than another Securitization Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings,

(2) with which none of the Borrower or any Subsidiary of the Borrower, other than another Securitization Subsidiary, has any material contract, agreement, arrangement or understanding other than on terms which the Borrower reasonably believes to be no less favorable to the Borrower or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Borrower, and

(3) to which none of the Borrower or any Subsidiary of the Borrower, other than another Securitization Subsidiary, has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results. Any such designation by the board of directors of the Borrower or such other Person shall be evidenced to the Administrative Agent by delivery to the Administrative Agent of a certified copy of the resolution of the board of directors of the Borrower or such other Person giving effect to such designation and a certificate executed by a Responsible Officer certifying that such designation complied with the foregoing conditions.

“Security Agreement” means, collectively, the Security Agreement executed by the Loan Parties, substantially in the form of Exhibit F, together with each Security Agreement Supplement executed and delivered pursuant to Section 6.11.

“Security Agreement Supplement” has the meaning specified in the Security Agreement.

“Senior Secured Net Leverage Ratio” means, with respect to any Test Period, the ratio of (1) Consolidated Secured Net Debt as of the last day of such Test Period to (2) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“Short Term Advances” has the meaning specified in the definition of “Indebtedness.”

“Significant Subsidiary” means, at any particular time, any Subsidiary of a Loan Party (or such Subsidiary and its subsidiaries taken together) that would be a “significant subsidiary” of such Loan Party within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

“Solicited Discount Proration” has the meaning specified in Section 2.07(1)(d)(iv)(3).

“Solicited Discounted Prepayment Amount” has the meaning specified in Section 2.07(1)(d)(iv)(1).

“Solicited Discounted Prepayment Notice” means a written notice of the Borrower of Solicited Discounted Prepayment Offers made pursuant to Section 2.07(1)(d)(iv) substantially in the form of Exhibit M-3.

“Solicited Discounted Prepayment Offer” means the irrevocable written offer by each Lender, substantially in the form of Exhibit M-4, submitted following the Administrative Agent’s receipt of a Solicited Discounted Prepayment Notice.

“Solicited Discounted Prepayment Response Date” has the meaning specified in Section 2.07(1)(d)(iv)(1).
“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date:

1. the fair value of the assets of such Person exceeds its debts and liabilities, subordinated, contingent or otherwise,

2. the present fair saleable value of the property of such Person is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured,

3. such Person is able to pay its debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured, and

4. such Person is not engaged in, and is not about to engage in, business for which it has unreasonably small capital.

The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“SPC” has the meaning specified in Section 11.07(7).

“Specified Discount” has the meaning specified in Section 2.07(1)(d)(ii)(1).

“Specified Discount Prepayment Amount” has the meaning specified in Section 2.07(1)(d)(ii)(1).

“Specified Discount Prepayment Notice” means a written notice of the Borrower Offer of Specified Discount Prepayment made pursuant to Section 2.07(1)(d)(ii) substantially in the form of Exhibit M-5.

“Specified Discount Prepayment Response” means the irrevocable written response by each Lender, substantially in the form of Exhibit M-6, to a Specified Discount Prepayment Notice.

“Specified Discount Prepayment Response Date” has the meaning specified in Section 2.07(1)(d)(ii)(1).

“Specified Discount Proration” has the meaning specified in Section 2.07(1)(d)(ii)(3).

“Specified Equity Contribution” has the meaning specified in Section 8.02.

“Specified Event of Default” means an Event of Default under Section 9.01(1) or Section 9.01(6).

“Specified IP Subsidiary” means a wholly-owned Restricted Subsidiary of the Borrower that (a) owns no assets other than Transferred IP and cash or Cash Equivalents necessary to support the business set forth in clause (b) of this definition, (b) conducts no business other than the licensing, development, promotion, marketing, and supply of the Transferred IP and (c) is prohibited from incurring any Indebtedness and/or Liens under its Organization Documents.

-60-
“Specified Representations” means those representations and warranties in Sections 5.01(1) (with respect to organizational existence only), 5.01(2)(b), 5.02(1), 5.02(2)(a), 5.04, 5.13, 5.16, 5.17 and 5.18.

“Specified Term Loan Requirements” means, with respect to any Indebtedness to be incurred by a Loan Party as “term loan indebtedness”:

1. the final scheduled maturity date of any such Indebtedness shall be no earlier than the Maturity Date of the Term A-1 Loans;

2. the interest rate margins, upfront fees, original issue discount, optional prepayment provisions and amortization applicable to any such Indebtedness shall be determined by the Persons providing such Indebtedness and the Borrower; provided that the Weighted Average Life to Maturity of any such Indebtedness shall be no shorter than the Weighted Average Life to Maturity of the Term A-1 Loans;

3. such Indebtedness may share on a pro rata basis or a less than a pro rata basis (but not greater than a pro rata basis) with the Term Loans in connection with any mandatory prepayments, repayments or application of funds upon the exercise of rights or remedies or the collection on account of any Collateral; and

4. the covenants, events of default and other terms (except as set forth in clauses (1) through (3) above) applicable to such Indebtedness shall be substantially identical to or, taken as a whole, no more favorable to the lenders providing such Indebtedness than those applicable to the Term A-1 Loans (except for covenants, events of default and other terms applicable to any period after the applicable Maturity Date); provided that any Incremental Amendment may effect modifications to the Loan Documents that are favorable to the Lenders (as reasonably determined by the Administrative Agent) to satisfy the requirement in this clause (4) without the consent of the Lenders; provided further that, notwithstanding anything in this definition to the contrary, with respect to any such Indebtedness that is in the form of a loan that is customarily understood to be a “term B loan” (as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment, it being understood that Indebtedness subject to amortization of greater than 1.0% per annum shall in no event constitute a “term B loan”), such Indebtedness may (a) be subject to mandatory prepayment from “excess cash flow” of the Borrower and its Restricted Subsidiaries solely for the benefit of such Indebtedness on market terms and conditions existing at the time of incurrence thereof for similar Indebtedness (as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment) and (b) be subject to “most-favored nation” pricing, maturity, prepayment and weighted-average life protection solely for the benefit of such Indebtedness on market terms and conditions existing at the time of incurrence thereof for similar Indebtedness (as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment).

“Specified Transaction” means any Investment that results in a Person becoming a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition, any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a facility or any Disposition of a business unit, line of business or division or a facility of the Borrower or a Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise, or any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for
working capital purposes), Restricted Payment or Incremental Loan that by the terms of this Agreement requires such test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

“Specified Transaction Adjustments” has the meaning specified in Section 1.08(3).

“Spot Currency Exchange Rate” has the meaning specified in Section 1.09(2).

“Standard Securitization Undertakings” means representations, warranties, covenants and indemnities entered into by the Borrower or any Subsidiary of the Borrower that are customary in a Securitization Financing.

“Stated Amount” means, with respect to any Letter of Credit at any time, the aggregate amount available to be drawn thereunder at such time (regardless of whether any conditions for drawing could then be met).

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which the Administrative Agent is subject with respect to the Adjusted Eurodollar Rate, for Eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the FRB). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Submitted Amount” has the meaning specified in Section 2.07(1)(d)(iii)(1).

“Submitted Discount” has the meaning specified in Section 2.07(1)(d)(iii)(1).

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (excluding, for the avoidance of doubt, charitable foundations) of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Successor Borrower” has the meaning specified in Section 7.04(4).

“Supplemental Administrative Agent” and “Supplemental Administrative Agents” have the meanings specified in Section 10.12(1).

“Swap Obligation” shall mean, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract, or transaction that constitutes a “swap” within the meaning of section 1(a)(47) of the Commodity Exchange Act.

“Swap Termination Value” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date
prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedge Agreements, as determined
based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements
(which may include a Lender or any Affiliate of a Lender).

“Swing Line Lender” means RBC in its capacity as the Swing Line Lender hereunder, together with its permitted successors and
assigns in such capacity.

“Swing Line Loan” means the swing line loan made by the Swing Line Lender to Borrower pursuant to Section 2.03.

“Swing Line Loan Request” means a Swing Line Loan Request substantially in the form of Exhibit A-3.

“Swing Line Note” means a promissory note in the form of Exhibit B-2, as it may be amended, restated, supplemental or otherwise
modified from time to time.

“Swing Line Sublimit” means $12,500,000.

“Taxes” has the meaning specified in Section 3.01(1).

“Term A-1 Loan” means the term loans made by the Lenders to the Borrower on the Restatement Effective Date pursuant to
Section 2.01(1).

“Term A-1 Loan Commitment” means, as to each Lender, its obligation to make a Term A-1 Loan to the Borrower hereunder,
expressed as an amount representing the maximum principal amount of the Term A-1 Loans to be made by such Lender under this
Agreement, as such commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to
time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an
Extension and (c) increased from time to time pursuant to an Incremental Amendment. The initial amount of each Lender’s Term A-1 Loan
Commitment is set forth on Schedule 2.01 under the caption “Term A-1 Loan Commitment” or, otherwise, in the Assignment and
Assumption, Incremental Amendment or Refinancing Amendment pursuant to which such Lender shall have assumed its Term A-1 Loan
Commitment, as the case may be.

“Term Loan” means the Term A-1 Loans. The term “Term Loan” shall be deemed to also include Incremental Term Loans,
Extended Term Loans and Refinancing Term Loans, to the extent not otherwise indicated and as the context may require.

“Term Loan Commitment” means, as to each Lender, its obligation to make a Term Loan to the Borrower hereunder, expressed as
an amount representing the maximum principal amount of the Term Loans to be made by such Lender under this Agreement, as such
commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to time pursuant to (i)
assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an Extension and (c)
increased from time to time pursuant to an Incremental Amendment. The initial amount of each Lender’s Term Loan Commitment is set forth
on Schedule 2.01 or, otherwise, in the Assignment and Assumption, Incremental Amendment or Refinancing Amendment pursuant to which
such Lender shall have assumed its Term Loan Commitment, as the case may be.
“Term Loan Exposure” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term Loans of such Lender; provided, at any time prior to the making of the Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender’s Term Loan Commitment, or, with regard to any Incremental Amendment at any time prior to the making of the applicable Incremental Term Loans thereunder, the Term Loan Exposure of any Lender with respect to such Incremental Term Facility shall be equal to such Lender’s Incremental Term Loan Commitment thereunder.

“Term Loan Note” means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit B-3 hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Term Loans made by such Lender.

“Termination Conditions” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations, in each case not then due and payable) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless backstopped or Cash Collateralized in an amount equal to 103% of the maximum drawable amount of any such Letter of Credit or otherwise in an amount or in a manner reasonably acceptable to the Issuing Bank).

“Test Period” means, at any time, (1) with respect to the Borrower, the four consecutive fiscal quarters of the Borrower then last ended (in each case taken as one accounting period) for which financial statements have been or are required to be delivered pursuant to Section 6.01(1) or Section 6.01(2); provided, that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 6.01(1) or (2), the Test Period in effect shall be the period of four consecutive fiscal quarters of the Borrower ended March 31, 2015. A Test Period may be designated by reference to the last day thereof (i.e., the “March 31, 2015 Test Period” refers to the period of four consecutive fiscal quarters of the Borrower ended on March 31, 2015), and a Test Period shall be deemed to end on the last day thereof and (2) in the case of any Person other than the Borrower, the period of four consecutive fiscal quarters most closely corresponding to the period set forth in clause (1).

“Teva Acquisition” means the acquisition by the Borrower of Acquired Teva Assets pursuant to the Teva Acquisition Agreement.

“Teva Acquisition Agreement” means that certain Asset Purchase Agreement, dated June 20, 2016, by and among the Borrower and Teva Pharmaceuticals Industries LTD, as amended by Amendment No. 1 to the Asset Purchase Agreement, dated as of June 30, 2016.

“Threshold Amount” means the greater of (A) $37,500,000 and (B) 12.5% of TTM Consolidated Adjusted EBITDA on a Pro Forma Basis as of the applicable date of determination.

“Tolmar Agreement” means that certain Loan and Security Agreement, dated as of March 22, 2012, between Impax Laboratories, Inc., as lender, and Tolmar, Inc., as borrower, as amended, restated, modified or supplemented from time to time.

“Total Assets” means the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Borrower delivered pursuant to Section 6.01(1) or Section 6.01(2) or, for the period prior to the time any such statements are so delivered pursuant to Section 6.01(1) or Section 6.01(2), the Pro Forma Financial Statements.
“Total Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“Total Utilization of Revolving Commitments” means, as of any date of determination, the sum of:

(1) the aggregate principal amount of all outstanding Revolving Loans other than Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing the Issuing Bank for any amount drawn under any Letter of Credit or to be applied in accordance with Section 2.02(2)(b), but not yet so applied,

(2) the aggregate principal amount of all outstanding Swing Line Loans, and

(3) the Letter of Credit Usage.

“tranche” has the meaning specified in Section 2.18(1).

“Transaction Expenses” means any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries in connection with the Transactions and the Argentum Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

“Transactions” means, collectively,

(1) the repayment of all Indebtedness of the Borrower and its Subsidiaries under the Original Credit Agreement (and termination of all commitments, guarantees and security thereunder),

(2) the issuance of the Convertible Notes,

(3) the funding of the Revolving Loans (if any) and/or the availability of the Initial Revolving Commitments on the Closing Date,

(4) the consummation of any other transactions in connection with the foregoing, and

(5) the payment of the fees and expenses incurred in connection with any of the foregoing.

“Transferred IP” has the meaning specified in Section 7.02(21)(b).

“TTM Consolidated Adjusted EBITDA” means, as of any date of determination, the Consolidated Adjusted EBITDA of the Borrower for the four consecutive fiscal quarters most recently ended prior to such date for which financial statements have been delivered pursuant to Section 6.01(1) or (2) (or, in the case of a determination date that occurs prior to the first such delivery pursuant to such Sections, for the four consecutive fiscal quarters ended as of March 31, 2015).

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“Unfunded Advances/Participations” means
(1) with respect to the Administrative Agent, the aggregate amount, if any (a) made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing available to the Administrative Agent as contemplated by Sections 2.01(2)(b) and 2.02(2)(b) and (b) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by the Borrower or made available to the Administrative Agent by any such Lender,

(2) with respect to the Swing Line Lender, the aggregate amount, if any, of outstanding Swing Line Loans in respect of which any Revolving Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to Section 2.03(3), and

(3) with respect to the Issuing Bank, the aggregate amount, if any, of amounts drawn under Letters of Credit in respect of which a Revolving Lender shall have failed to make amounts available to the Issuing Bank pursuant to Section 2.04(3).

“Uniform Commercial Code” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United States” and “U.S.” mean the United States of America.

“Unrestricted Subsidiary” means (i) each Securitization Subsidiary and (ii) any Subsidiary of the Borrower designated by the board of directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the Closing Date, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“U.S. Lender” has the meaning specified in Section 3.01(3)(a).

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided, that for purposes of determining the Weighted Average Life to Maturity of any Refinanced Debt or any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the “Applicable Indebtedness”), the effects of any prepayments made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

“wholly owned” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director’s qualifying shares and (y) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person or by one or more wholly owned Subsidiaries of such Person.

-66-
“Withdrawal Liability” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such term is defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means any Loan Party and the Administrative Agent.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

1. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

2. (a) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

3. References in this Agreement to an Exhibit, Schedule, Article, Section, clause or subclause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or subclause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears.

4. The term “including” is by way of example and not limitation.

5. The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

6. Exclusive effect will not be given to the word “or” unless the context specifically requires otherwise.

7. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including.”

8. Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

SECTION 1.03 Accounting Terms; Payment Dates. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, except as otherwise specifically prescribed herein. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a
“fiscal year” or a “fiscal quarter” shall refer to a fiscal year ending December 31 or fiscal quarter ending March 31, June 30, September 30 or December 31 of the Borrower.

Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Board Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.07 Available Amount Transactions. If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount of the Available Amount immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently and in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under the Available Amount as so calculated.

SECTION 1.08 Pro Forma Calculations; Limited Condition Acquisitions; Ratio Compliance.

(1) Notwithstanding anything to the contrary herein, Consolidated Adjusted EBITDA, TTM Consolidated Adjusted EBITDA, the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio shall be calculated in the manner prescribed by this Section 1.08, provided, that notwithstanding anything to the contrary in clauses (2), (3) or (4) of this Section 1.08, when calculating the Total Net Leverage Ratio for purposes of Section 8.01 (including the components thereof), the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect.

(2) For purposes of calculating Consolidated Adjusted EBITDA, TTM Consolidated Adjusted EBITDA, the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (a) during the applicable Test Period or (b) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a
pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period. If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.08, then Consolidated Adjusted EBITDA, TTM Consolidated Adjusted EBITDA, the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio shall be calculated to give pro forma effect thereto in accordance with this Section 1.08.

(3) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Responsible Officer and may include, for the avoidance of doubt, the amount of cost savings, operating expense reductions and, synergies projected by the Borrower in good faith to be realized as a result of specified actions taken, committed to be taken or expected to be taken (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such Test Period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions (such cost savings and synergies, “Specified Transaction Adjustments”); provided, that

(a) such Specified Transaction Adjustments are reasonably identifiable, quantifiable and factually supportable in the good faith judgment of a Responsible Officer of the Borrower,

(b) such actions are taken, committed to be taken or reasonably anticipated to be taken no later than eighteen (18) months after the date of such Specified Transaction,

(c) no amounts shall be added pursuant to this clause (3) to the extent duplicative of any amounts that are otherwise added back in calculating Consolidated Adjusted EBITDA, whether through a pro forma adjustment or otherwise, with respect to such period, and

(d) the aggregate amount of cost savings and synergies added pursuant to this clause (3) for any such period after the Closing Date shall not exceed 15% of Consolidated Adjusted EBITDA for such Test Period (prior to giving effect to any such cost savings or synergies).

(4) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (a) during the applicable Test Period or (b) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period.

(5) Notwithstanding anything in this Agreement or any Loan Document to the contrary, but without in any way limiting the conditions to funding set forth in Section 4.02, when (a) calculating any applicable ratio or financial metric in connection with incurrence of Indebtedness, the creation of Liens, the making of any Disposition, the making of an Investment, the designation of Subsidiary as restricted or unrestricted or the repayment of Indebtedness or (b) determining compliance with any provision of this
Agreement which requires that no Default or Event of Default has occurred, is continuing or would result therefrom, in each case of (a) and (b) in connection with a Limited Condition Acquisition, the date of determination of such ratio or financial metric and determination of whether any Default or Event of Default has occurred, is continuing or would result therefrom shall, at the option of the Borrower (the Borrower’s election to exercise such option in connection with any Limited Condition Acquisition, an “LCA Election”), be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the “LCA Test Date”). If on a Pro Forma Basis after giving effect to such Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof), with such ratios or financial metrics and other provisions being calculated as if such Limited Condition Acquisition or other transactions had occurred at the beginning of the most recent Test Period ending prior to the LCA Test Date for which financial statements are available, the Borrower could have taken such action on the relevant LCA Test Date in compliance with the applicable ratios or other provisions, such provisions shall be deemed to have been complied with, unless a Specified Event of Default shall be continuing on the date such Limited Condition Acquisition is consummated. For the avoidance of doubt, (i) if any of such ratios or other provisions are exceeded or breached as a result of fluctuations in such ratio (including due to fluctuations in Consolidated Adjusted EBITDA) or other provisions at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios and other provisions will not be deemed to have been exceeded or breached solely for purposes of determining whether the Limited Condition Acquisition is permitted hereunder and (ii) such ratios or financial metrics and compliance with such conditions shall not be tested at the time of consummation of such Limited Condition Acquisition or related Specified Transactions, unless on such date a Specified Event of Default shall be continuing. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to any other Specified Transaction on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated. Notwithstanding anything in this Agreement or any Loan Document to the contrary, if the Borrower or any Restricted Subsidiary (x) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, makes Restricted Payments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness in connection with any Limited Condition Acquisition under a ratio-based basket and (y) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, makes Restricted Payments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness in connection with such Limited Condition Acquisition under a non-ratio-based basket (which shall occur within five Business Days of the events in clause (x) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such Limited Condition Acquisition.

SECTION 1.09 Currency Equivalents Generally.

(1) For purposes of determining compliance with Sections 7.01, 7.02 and 7.03 with respect to any amount of Lien, Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(2) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or
are determined by reference to, amounts stated in Dollars, any requisite currency translation shall be based on the rate of exchange between the applicable currency and Dollars (as quoted by the Administrative Agent or if the Administrative Agent does not quote a rate of exchange on such currency, by a known dealer in such currency reasonably acceptable to the Borrower and the Administrative Agent (the “Spot Currency Exchange Rate”)) in effect on the Business Day immediately preceding the date of such transaction (subject to the following proviso) or determination and shall not be affected by subsequent fluctuations in exchange rates.

(3) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Spot Currency Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided, that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the Spot Currency Exchange Rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Spot Currency Exchange Rate that is in effect on the date of such refinancing.

**ARTICLE II**

**The Commitments and Borrowings**

**SECTION 2.01 Term Loans**

(1) **Term Loan Commitment.** Subject to the terms and conditions set forth herein (including Section 2.08 (2)(b)), each Lender severally agrees to make to the Borrower on the Restatement Effective Date a single Term A-1 Loan denominated in Dollars equal to such Lender’s Term A-1 Loan Commitment. Amounts borrowed under this Section 2.01(1) and repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

(2) **Borrowing Mechanics for Term Loans.**

(a) Each Borrowing of Term Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may only be given in writing. Subject to Section 4.02 (or, in the case of the Initial Term Loans, Section 4 of the Restatement Agreement), each such notice must be received by the Administrative Agent not later than 12:00 noon (New York City time) (i) three (3) Business Days or such shorter period as may be acceptable to the Administrative Agent (or, in the case of the Initial Term Loans, one (1) Business Day) prior to the requested date of any Borrowing of Eurodollar Rate Loans, and (ii) one (1) Business Day before the requested date of any Borrowing of Base Rate Loans; provided, that such notices may be conditioned on the occurrence of any transaction utilizing such Term Loans.

(b) Each notice by the Borrower pursuant to this Section 2.01(2) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Committed Loan Notice shall specify:

(i) that the Borrower is requesting a Borrowing of Term Loans,
(ii) the requested date of the Borrowing (which shall be a Business Day),

(iii) the Type of Term Loans to be borrowed, and

(iv) if applicable, the duration of the Interest Period with respect thereto.

If the Borrower fails to specify a Type of Term Loan in a Committed Loan Notice, then the applicable Term Loans shall be made as Base Rate Loans. If the Borrower requests a Borrowing of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, for such Eurodollar Rate Loans, the Borrower will be deemed to have specified an Interest Period of one (1) month.

(c) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable tranche of Term Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Term Loan available to the Administrative Agent by wire transfer in Same Day Funds at the Administrative Agent’s Office not later than 1:00 p.m. (New York City time), on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (or, if such Borrowing is on the Restatement Effective Date, Section 4 of Restatement Agreement), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(d) The failure of any Lender to make the Term Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Term Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Term Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.02 Revolving Loans.

(1) Revolving Loan Commitment. During the Revolving Commitment Period, subject to the terms and conditions set forth herein, each Lender severally agrees to make revolving loans to the Borrower from time to time on any Business Day in Dollars (“Revolving Loans”) in an aggregate principal amount up to but not exceeding such Lender’s Revolving Commitment, provided, that after giving effect to the making of any Revolving Loans in no event shall the Total Utilization of Revolving Commitments exceed the Revolving Commitments then in effect. Amounts borrowed pursuant to this Section 2.02(1) may be repaid and reborrowed during the Revolving Commitment Period. Each Lender’s Revolving Commitment shall expire on the Revolving Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Commitments shall be paid in full no later than such date.

(2) Borrowing Mechanics for Revolving Loans.

(a) Each Borrowing of Revolving Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may only be given in writing (each request for a Borrowing of a Swing Line Loan shall be made in accordance with Section 2.03). Subject to Section 4.01(1)(a), each such notice must be received by the Administrative Agent not later than 12:00 noon (New York City time) (i) three (3) Business Days prior to the requested date of any Borrowing of Eurodollar Rate Loans, and (ii) one (1) Business Day before the requested date of any Borrowing of Base Rate Loans. Each
notice by the Borrower pursuant to this Section 2.02(2)(a) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of Eurodollar Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $250,000 in excess thereof. Each Borrowing of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Committed Loan Notice shall specify:

(i) that the Borrower is requesting a Borrowing of Revolving Loans,
(ii) the requested date of the Borrowing (which shall be a Business Day),
(iii) the principal amount of Revolving Loans to be borrowed,
(iv) the Type of Revolving Loans to be borrowed, and
(v) if applicable, the duration of the Interest Period with respect thereto.

Each Swing Line Loan shall be a Base Rate Loan.

If the Borrower fails to specify a Type of Revolving Loan in a Committed Loan Notice, then the applicable Revolving Loans shall be made as Base Rate Loans. If the Borrower requests a Borrowing of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, for such Eurodollar Rate Loans, the Borrower will be deemed to have specified an Interest Period of one (1) month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Revolving Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Revolving Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent’s Office not later than 1:00 p.m. (New York City time), on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is on the Closing Date, Section 4.01) or, if such Borrowing is on the Restatement Effective Date, Section 4 of the Restatement Agreement, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(c) The failure of any Lender to make the Revolving Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.03 Swing Line Loan.

(1) Swing Line Loan. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance on the agreements of the Revolving Lenders set forth in this Section 2.03, agrees to make Swing Line Loans to the Borrower from time to time on any Business Day during the Revolving Commitment Period, in an aggregate principal amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, provided, that after giving effect to any Swing Line Loan,
(a) the Total Utilization of Revolving Commitments shall not exceed the Revolving Commitments,

(b) the Total Utilization of Revolving Commitments of any Revolving Lender, shall not exceed such Lender’s Revolving Commitment, and

(c) the aggregate principal amount outstanding of all Swing Line Loans shall not exceed the Swing Line Sublimit;

provided, further, that the Swing Line Lender shall not be required to make a Swing Line Loan to refinance an outstanding Swing Line Loan.

Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swing Line Loans. Immediately upon the making of a Swing Line Loan by the Swing Line Lender, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a participation in such Swing Line Loan in an amount equal to such Revolving Lender’s Pro Rata Share of the amount of such Swing Line Loan.

(2) Borrowing Mechanics for Swing Line Loans. Each Borrowing of a Swing Line Loan shall be made upon the Borrower’s irrevocable notice to the Swing Line Lender. Each such notice shall be in the form of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower, and must be received by the Swing Line Lender not later than 10:00 a.m. (New York City time) on the date of the requested Borrowing of a Swing Line Loan, and such notice shall specify (a) the amount to be borrowed, which shall be in a minimum of $250,000 or a whole multiple of $50,000 in excess thereof, and (b) the date of such Borrowing of a Swing Line Loan (which shall be a Business Day). Unless the Swing Line Lender determines not to make such Swing Line Loan as a result of (i) the limitations set forth in the first sentence of Section 2.03(1) or (ii) that one or more of the applicable conditions set forth in Section 4.02 is not then satisfied, then, subject to the terms and conditions set forth herein, the Swing Line Lender shall make each Swing Line Loan available to the Borrower, by wire transfer thereof in accordance with instructions provided to (and reasonably acceptable to) the Swing Line Lender, not later than 3:00 p.m. (New York City time) on the requested date of such Swing Line Loan (which instructions may include standing payment instructions, which may be updated from time to time by the Borrower, provided, that unless the Swing Line Lender shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Swing Line Lender).

(3) Refinancing of Swing Line Loans.

(a) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Lender make a Revolving Loan that is a Base Rate Loan in an amount equal to such Lender’s Pro Rata Share of the amount of Swing Line Loans made by the Swing Line Lender then outstanding (the “Refunded Swing Line Loans”). Such request shall be made in writing to the Administrative Agent (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance (including with respect to prior notice requirements) with the requirements of Section 2.02(2), without regard to the minimum and multiples specified therein, but subject to the aggregate unused Revolving Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of such Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Lender shall make an amount equal to its Pro Rata Share of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash
Collateral available with respect to the applicable Swing Line Loan for the account of the Swing Line Lender at the Administrative Agent’s Office not later than 1:00 p.m. (New York City time) on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.03(3)(b), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Borrower in such amount.

(b) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Loan Borrowing in accordance with Section 2.03(3)(a), the request for Revolving Loans that are Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Lenders fund its participation in the relevant Swing Line Loan and each Revolving Lender’s payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.03(3)(a) shall be deemed payment in respect of such participation. The Administrative Agent shall notify the Borrower of any participations in any Swing Line Loan funded pursuant to this clause (b), and thereafter payments in respect of such Swing Line Loan (to the extent of such funded participations) shall be made to the Administrative Agent for the benefit of the Revolving Lenders and not to the Swing Line Lender.

(c) If any Revolving Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.03(3) by the time specified in Section 2.03(3)(a), the Swing Line Lender shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate from time to time in effect and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation, plus any reasonable administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Revolving Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender’s Revolving Loan included in the relevant Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (c) shall be conclusive absent manifest error.

(d) Each Revolving Lender’s obligation to make Revolving Loans or to purchase and fund participations in Swing Line Loans pursuant to this Section 2.03(3) shall be absolute and unconditional and shall not be affected by any circumstance, including:

(i) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever,

(ii) the occurrence or continuance of a Default, or

(iii) any other occurrence, event or condition, whether or not similar to any of the foregoing;

provided, that each Revolving Lender’s obligation to make Revolving Loans pursuant to this Section 2.03(3) is subject to the conditions set forth in Section 4.02; provided, further, that for the avoidance of doubt, the conditions set forth in Section 4.02 shall not apply to the purchase or funding of participations pursuant to this Section 2.03(3).
No such funding of participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(4) **Repayment of Participations**.

(a) At any time after any Revolving Lender has purchased and funded a participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will promptly remit such Revolving Lender’s Pro Rata Share of such payment to the Administrative Agent (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender’s participation was funded) in like funds as received by the Swing Line Lender, and any such amounts received by the Administrative Agent will be remitted by the Administrative Agent to the Revolving Lenders that shall have funded their participations pursuant to Section 2.03(3)(b) to the extent of their interests therein.

(b) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the Swing Line Lender in its reasonable discretion), each Revolving Lender shall pay to the Administrative Agent for the account of the Swing Line Lender its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned at a rate per annum equal to the Federal Funds Rate from time to time in effect. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Revolving Lenders under this clause (b) shall survive the payment in full of the Obligations and the termination of this Agreement.

(5) **Interest for Account of Swing Line Lender**. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans made by the Swing Line Lender. Until each Revolving Lender funds its Revolving Loan that is a Base Rate Loan or participation pursuant to this Section 2.03 to refinance such Lender’s Pro Rata Share of any Swing Line Loan made by the Swing Line Lender, interest in respect of such Lender’s share thereof shall be solely for the account of the Swing Line Lender.

(6) **Payments Directly to Swing Line Lender**. Except as otherwise expressly provided herein, the Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

SECTION 2.04 **Letters of Credit**.

(1) **Letter of Credit Commitment**.

(a) Subject to the terms and conditions set forth herein, (i) the Issuing Bank agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.04, (A) from time to time on any Business Day during the Revolving Commitment Period, to issue Letters of Credit for the account of the Borrower or a Restricted Subsidiary (provided, that any Letter of Credit issued for the benefit of any Restricted Subsidiary shall be issued for the account of the Borrower but such Letter of Credit shall indicate that it is being issued for the benefit of such Restricted Subsidiary) and to amend, renew or extend Letters of Credit previously issued by it, in accordance with Section 2.04(2) and (B) to honor drawings under the Letters of Credit; and (ii) the Revolving Lenders severally agree to participate in such Letters of Credit and any drawings thereunder; provided, that the Issuing Bank shall not be obligated to make any Letter of Credit Extension if, as of the date of such Letter of Credit Extension;
(i) the Total Utilization of Revolving Commitments would exceed the Revolving Commitments,

(ii) the Total Utilization of Revolving Commitments of any Revolving Lender, would exceed such Lender’s Revolving Commitment, or

(iii) the Letter of Credit Usage would exceed the Letter of Credit Sublimit;

_provided, further_, that RBC shall be under no obligation to issue trade or commercial Letters of Credit.

Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower’s ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(b) The Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Issuing Bank from issuing such Letter of Credit, or any Law applicable to the Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Bank shall prohibit, or request that the Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the Issuing Bank in good faith deems material to it (for which the Issuing Bank is not otherwise compensated hereunder);

(ii) the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank applicable to letters of credit generally;

(iii) except as otherwise agreed by the Administrative Agent and the Issuing Bank, such Letter of Credit is in an initial stated amount less than $10,000;

(iv) such Letter of Credit is to be denominated in a currency other than Dollars;

(v) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; and

(vi) any Revolving Lender is at such time a Defaulting Lender, unless the Issuing Bank has entered into arrangements, including reallocation of such Lender’s Pro Rata Share of the outstanding Letter of Credit Obligations pursuant to Section 2.19(1)(c) or the delivery of Cash Collateral, satisfactory to the Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate the Issuing Bank’s actual or potential Fronting Exposure (after giving effect to Section 2.19(1)(c)) with respect to such Lender arising from either the Letter of Credit then proposed to be issued or such Letter of

-77-
Credit and all other Letter of Credit Obligations as to which the Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(c) The Issuing Bank shall not be under any obligation to amend or extend any Letter of Credit if (i) the Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (ii) the beneficiary of such Letter of Credit does not accept the proposed amendment thereto.

(d) Each standby Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date twelve months after the date of issuance of such standby Letter of Credit (or, in the case of any Auto-Renewal Letter of Credit, twelve months after the then current expiration date of such Letter of Credit) and (ii) the Letter of Credit Expiration Date (unless arrangements reasonably satisfactory to the Issuing Bank have been entered into).

(2) Procedures for Issuance and Amendment of Letters of Credit; Auto-Renewal Letters of Credit

(a) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the applicable Issuing Bank and the Administrative Agent not later than 1:00 p.m. (New York City time) at least five (5) Business Days (or such shorter period as the Issuing Bank and the Administrative Agent may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the Issuing Bank:

(i) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day);

(ii) the amount thereof;

(iii) the expiry date thereof;

(iv) the name and address of the beneficiary thereof;

(v) the documents to be presented by such beneficiary in case of any drawing thereunder;

(vi) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and

(vii) such other matters as the applicable Issuing Bank may reasonably request.

In the case of a request for an amendment of any outstanding Letter of Credit, the Letter of Credit Application shall specify in form and detail reasonably satisfactory to the Issuing Bank:

(A) the Letter of Credit to be amended;

(B) the proposed date of amendment thereof (which shall be a Business Day); and
Additionally, the Borrower shall furnish to the Issuing Bank and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Letter of Credit Documents, as the Issuing Bank or the Administrative Agent may reasonably require.

(b) Promptly after receipt of any Letter of Credit Application, the Issuing Bank will confirm with the Administrative Agent that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions set forth herein, the Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a participation in such Letter of Credit in an amount equal to such Lender’s Pro Rata Share of the amount of such Letter of Credit.

(c) If the Borrower so requests in any applicable Letter of Credit Application, the Issuing Bank may, in its reasonable discretion, agree to issue a standby Letter of Credit that has automatic renewal provisions (each, an “Auto-Renewal Letter of Credit”); provided, that any such Auto-Renewal Letter of Credit shall permit the Issuing Bank to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Nonrenewal Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the Issuing Bank, the Borrower shall not be required to make a specific request to the Issuing Bank for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the Revolving Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the Issuing Bank shall not (i) permit any such renewal if (A) the Issuing Bank has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of clause (b) or (c) of Section 2.04(1) or otherwise) or (B) it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent that the Required Revolving Lenders have elected not to permit such renewal or (ii) be obligated to permit such renewal if it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions set forth in Section 4.02 is not then satisfied, and in each such case directing the Issuing Bank not to permit such renewal.

(d) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(3) Drawings and Reimbursement; Funding of Participations.

(a) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the Issuing Bank shall notify the Borrower and the Administrative Agent thereof, and the Issuing Bank shall, within a reasonable time following its receipt thereof, examine all
documents purporting to represent a demand for payment under such Letter of Credit. If the Issuing Bank notifies the Borrower of any payment by the Issuing Bank under a Letter of Credit prior to 11:00 a.m. (New York City time) on the date of such payment, the Borrower shall reimburse the Issuing Bank in an amount equal to the amount of such drawing; provided, that if such notice is not provided to the Borrower prior to 11:00 a.m. (New York City time) on such payment date, then the Borrower shall reimburse the Issuing Bank in an amount equal to the amount of such drawing not later than 3:00 p.m. (New York City time) on the next succeeding Business Day, and such extension of time shall be reflected in computing fees in respect of such Letter of Credit. If the Borrower fails to so reimburse the Issuing Bank by such time, the Issuing Bank shall promptly notify the Administrative Agent of such failure and the Administrative Agent shall promptly thereafter notify each Revolving Lender of such payment date, the amount of the unreimbursed drawing (the “Reimbursement Obligations”) and the amount of such Lender’s Pro Rata Share thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Revolving Loans that are Base Rate Loans to be disbursed on such payment date in an amount equal to such Reimbursement Obligation, without regard to the minimum and multiples specified in Section 2.02(2)(a) for the principal amount of Base Rate Loans, but subject to the aggregate unused Revolving Commitments and the conditions set forth in Section 4.02 (other than delivery of a Committed Loan Notice). Any notice given by an Issuing Bank or the Administrative Agent pursuant to this clause (a) shall be given in writing.

(b) Each Revolving Lender (including each Revolving Lender acting as the Issuing Bank) shall upon any notice pursuant to Section 2.04(3)(a) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the Issuing Bank at the Administrative Agent’s Office in an amount equal to its Pro Rata Share of the relevant Reimbursement Obligation not later than 3:00 p.m. (New York City time) on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(3)(c), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Issuing Bank in accordance with the instructions provided to the Administrative Agent by the Issuing Bank (which instructions may include standing payment instructions, which may be updated from time to time by the Issuing Bank, provided, that unless the Administrative Agent shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Administrative Agent).

(c) With respect to any Reimbursement Obligation that is not fully refinanced by a Borrowing of Revolving Loans that are Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable Issuing Bank a Letter of Credit Borrowing in the amount of the Reimbursement Obligation that is not so refinanced, which Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate then applicable to Revolving Loans that are Base Rate Loans. In such event, each Revolving Lender’s payment to the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.04(3)(a) shall be deemed payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a Letter of Credit Advance from such Lender in satisfaction of its participation obligation under this Section.

(d) Until each Revolving Lender funds its Revolving Loan or Letter of Credit Advance to reimburse the Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Pro Rata Share of such amount shall be solely for the account of the Issuing Bank.

(e) Each Revolving Lender’s obligations to make Revolving Loans or Letter of Credit Advances to reimburse the Issuing Bank for amounts drawn under Letters of Credit, as contemplated by
this Section 2.04(3), shall be absolute and unconditional and shall not be affected by any circumstance, including

(i) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Bank, the Borrower or any other Person for any reason whatsoever;

(ii) the occurrence or continuance of a Default; or

(iii) any other occurrence, event or condition, whether or not similar to any of the foregoing;

provided, that each Revolving Lender’s obligation to make Revolving Loans pursuant to this Section 2.04(3) is subject to the conditions set forth in Section 4.02. No such funding of a participation in any Letter of Credit shall relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Bank for the amount of any payment made by the Issuing Bank under such Letter of Credit, together with interest as provided herein.

(f) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(3) by the time specified in Section 2.04(3)(b), then, without limiting the other provisions of this Agreement, the Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate from time to time in effect and a rate determined by the Issuing Bank in accordance with banking industry rules on interbank compensation, plus any reasonable administrative, processing or similar fees customarily charged by the Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender’s Revolving Loan included in the relevant Borrowing or Letter of Credit Advance in respect of the relevant Letter of Credit Borrowing, as the case may be. A certificate of the Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (f) shall be conclusive absent manifest error.

(4) Repayment of Participations.

(a) If, at any time after the Issuing Bank has made payment in respect of any drawing under any Letter of Credit issued by it and has received from any Revolving Lender its Letter of Credit Advance in respect of such payment in accordance with Section 2.04(3), if the Administrative Agent receives for the account of the Issuing Bank any payment in respect of the related Reimbursement Obligation or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender’s Letter of Credit Advance was outstanding) in like funds as received by the Administrative Agent.

(b) If any payment received by the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.04(3)(a) is required to be returned under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the Issuing Bank in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of the Issuing Bank its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such
demand to the date such amount is returned by such Lender at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Revolving Lenders under this clause (b) shall survive the payment in full of the Obligations and the termination of this Agreement.

(5) **Obligations Absolute.** The obligation of the Borrower to reimburse the Issuing Bank for each drawing under each Letter of Credit and to repay each Letter of Credit Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(a) any lack of validity or enforceability of such Letter of Credit or any term or provision thereof, any Loan Document, or any other agreement or instrument relating thereto;

(b) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(c) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(d) any payment by the Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not comply strictly with the terms of such Letter of Credit; or any payment made by the Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including arising in connection with any proceeding under any Debtor Relief Law;

(e) any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the Obligations of the Borrower in respect of such Letter of Credit; or

(f) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower’s instructions or other irregularity, the Borrower will promptly notify the Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against any Issuing Bank and its correspondents unless such notice is given as aforesaid.

(6) **Role of Issuing Bank.** Each Revolving Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any document or the authority of the Person executing or delivering any document. None of the Issuing Bank, any Agent-Related Person nor
any of the respective correspondents, participants or assignees of the Issuing Bank shall be liable to any Revolving Lender for

(a) any action taken or omitted in connection herewith at the request or with the approval of the requisite Revolving Lenders;

(b) any action taken or omitted in the absence of gross negligence or willful misconduct; or

(c) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application.

The Borrower hereby assumes all risks of the acts of omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, that this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Bank, any Agent-Related Person nor any of the respective correspondents, participants or assignees of the Issuing Bank shall be liable or responsible for any of the matters described in Section 2.04(5); provided, further, that notwithstanding anything in such section to the contrary, the Borrower may have a claim against the Issuing Bank, and the Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct (as opposed to indirect, special, punitive, consequential or exemplary) damages suffered by the Borrower which a court of competent jurisdiction determines in a final non-appealable judgment were caused by the Issuing Bank’s gross negligence or willful misconduct or the Issuing Bank’s willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(7) **Applicability of ISP.** Unless otherwise expressly agreed by the Issuing Bank and the Borrower when a standby Letter of Credit is issued, the rules of the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to such standby Letter of Credit.

(8) **Conflict with Letter of Credit Application.** In the event of any conflict between the terms of this Agreement and the terms of any Letter of Credit Application, the terms hereof shall control.

(9) **Reporting.** Each day (or at such other intervals as the Administrative Agent and the Issuing Bank shall agree), the Issuing Bank shall provide to the Administrative Agent a schedule of the Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), the expiration date, and the reference number of any Letter of Credit outstanding at any time during such month, and showing the aggregate amount (if any) payable by the Borrower to the Issuing Bank during such month.

(10) **Cash Collateral Account.** At any time and from time to time (a) after the occurrence and during the continuance of an Event of Default, the Administrative Agent, at the direction or with the consent of the Required Lenders, may require the Borrower, to deliver to the Administrative Agent such
amount of cash as is equal to 103% of the aggregate Stated Amount of all Letters of Credit at any time outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder), (b) if the Issuing Bank has honored any full or partial drawing under any Letter of Credit and such drawing has resulted in a Letter of Credit Borrowing, or (c) if, as of the Letter of Credit Expiration Date, any Letter of Credit Obligation for any reason remains outstanding, the Administrative Agent will retain such amount as may then be required to be retained, such amounts in each case under clauses (a) through (c) above to be held by the Administrative Agent in a Cash Collateral Account. The Borrower hereby grants (or, if registration thereof is required in any applicable jurisdiction, shall grant) to the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, a Lien upon and security interest in the Cash Collateral Account and all amounts held therein from time to time as security for Letter of Credit Usage, and for application to the Borrower’s Letter of Credit Obligations as and when the same shall arise. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest on the investment of such amounts in Cash Equivalents, which investments shall be made at the direction of the Borrower (unless an Event of Default shall have occurred and be continuing, in which case the determination as to investments shall be made at the option and in the discretion of the Administrative Agent), amounts in the Cash Collateral Account shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. In the event of a drawing, and subsequent payment by the Issuing Bank, under any Letter of Credit at any time during which any amounts are held in the Cash Collateral Account, the Administrative Agent will deliver to the Issuing Bank an amount equal to the Reimbursement Obligation created as a result of such payment (or, if the amounts so held are less than such Reimbursement Obligation, all of such amounts) to reimburse the Issuing Bank therefor. Any amounts remaining in the Cash Collateral Account after the expiration of all Letters of Credit and reimbursement in full of the Issuing Bank for all of its obligations thereunder shall be held by the Administrative Agent, for the benefit of the Borrower, to be applied against the Obligations in such order and manner as the Administrative Agent may direct. If the Borrower is required to provide Cash Collateral pursuant to this Section 2.04(10), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower on demand, provided, that after giving effect to such return

(i) the sum of

(A) the aggregate principal dollar amount of all Revolving Loans outstanding at such time

(B) the aggregate principal amount of all Swing Line Loans outstanding at such time, and

(C) the aggregate Letter of Credit Usage at such time would not exceed the aggregate Revolving Commitments at such time, and

(ii) no Event of Default shall have occurred and be continuing at such time.

If the Borrower is required to provide Cash Collateral as a result of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

(11) Addition of an Issuing Bank. One or more Revolving Lenders (other than a Defaulting Lender) selected by the Borrower that agree to act in such capacity and reasonably acceptable to the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the
SECTION 2.05 Conversion/Continuation.

(1) Each conversion of Loans from one Type to another, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent (a) not later than 12:00 noon (New York City time) one (1) Business Day prior to the requested date of any conversion of Eurodollar Rate Loans to Base Rate Loans and (b) not later than 12:00 noon (New York City time) three (3) Business Days prior to the requested date of continuation of any Eurodollar Rate Loans or any conversion of Base Rate Loans to Eurodollar Rate Loans. Each notice by the Borrower pursuant to this Section 2.05(1) must be delivered to the Administrative Agent in the form of a Conversion/Continuation Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $250,000 in excess thereof. Each conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Conversion/Continuation Notice shall specify

(i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans,

(ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day),

(iii) the principal amount of Loans to be converted or continued,

(iv) the Class of Loans to be converted or continued,

(v) the Type of Loans to which such existing Loans are to be converted, if applicable, and

(vi) if applicable, the duration of the Interest Period with respect thereto.

If the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be converted to Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a conversion to, or continuation of Eurodollar Rate Loans in any such Conversion/Continuation Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month.

(2) Following receipt of a Conversion/Continuation Notice, the Administrative Agent shall promptly notify each applicable Lender of its Pro Rata Share of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loans described in Section 2.05(1).

(3) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent or the Required Lenders
may require by notice to the Borrower that no Loans may be converted to or continued as Eurodollar Rate Loans. This Section shall not apply to Swing Line Loans, which may not be converted or continued.

SECTION 2.06 Availability. Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender’s Pro Rata Share of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to the applicable Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate plus any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.06 shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender’s applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.07 Prepayments.

(1) Optional.

(a) The Borrower may, upon notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time voluntarily prepay the Loans in whole or in part without premium or penalty, subject to Section 3.05; provided, that (i) such Prepayment Notice must be received by the Administrative Agent:

(A) not later than 12:00 noon (New York City time) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans,

(B) not later than 12:00 noon (New York City time) one (1) Business Day prior to any date of prepayment of Base Rate Loans, and

(C) not later than 12:00 noon (New York City time) on the date of prepayment of the Swing Line Loans;

(ii) any prepayment of Eurodollar Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding; and

(iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding.
Each such Prepayment Notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid and the payment amount specified in such Prepayment Notice shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such Prepayment Notice, and of the amount of such Lender’s Pro Rata Share of such prepayment. Any prepayment of Loans shall be subject to Section 2.07(3). Revolving Loans, Incremental Revolving Loans and Swing Line Loans (but not Term Loans, any Incremental Term Loans or any other Loans) prepaid pursuant to this Section 2.07(1) may be reborrowed, subject to the terms and conditions of this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind any notice of prepayment under Section 2.07(1)(a), if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility or a Change of Control, which refinancing or Change of Control shall not be consummated or shall otherwise be delayed.

(c) Voluntary prepayments of Term Loans permitted hereunder shall be applied in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity).

(d) Notwithstanding anything in any Loan Document to the contrary, so long as (a) no Default or Event of Default has occurred and is continuing and (b) no proceeds of Revolving Loans or Swing Line Loans are used for this purpose, the Borrower may prepay the outstanding Term Loans (which shall, for the avoidance of doubt, be automatically and permanently canceled immediately upon acquisition by the Borrower) (or any of Subsidiary of the Borrower may purchase such outstanding Term Loans and immediately cancel them) on the following basis:

(i) The Borrower shall have the right to make a voluntary prepayment of Term Loans at a discount to par pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offers or Borrower Solicitation of Discounted Prepayment Offers (any such prepayment, the “Discounted Loan Prepayment”), in each case made in accordance with this Section 2.07(1)(d); provided, that the Borrower shall not initiate any action under this Section 2.07(1)(d) in order to make a Discounted Loan Prepayment unless (I) at least ten (10) Business Days shall have passed since the consummation of the most recent Discounted Loan Prepayment as a result of a prepayment made by the Borrower on the applicable Discounted Prepayment Effective Date; or (II) at least three (3) Business Days shall have passed since the date the Borrower was notified that no Lender was willing to accept any prepayment of any Term Loan at the Specified Discount, within the Discount Range or at any discount to par value, as applicable, or in the case of Borrower Solicitation of Discounted Prepayment Offers, the date of the Borrower’s election not to accept any Solicited Discounted Prepayment Offers.

(ii) (I) Subject to the proviso to subsection (i) above, the Borrower may from time to time offer to make a Discounted Loan Prepayment by providing the Auction Agent with five (5) Business Days’ notice in the form of a Specified Discount Prepayment Notice; provided, that (I) any such offer shall be made available, at the sole discretion of the Borrower, to (x) each Lender or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the “Specified Discount Prepayment Amount”) with respect to each applicable tranche, the tranche or tranches of Term Loans subject to such offer and the specific percentage discount to par (the “Specified Discount”) of such Term Loans to be prepaid (it being understood that different
Specified Discounts or Specified Discount Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than $5,000,000 and whole increments of $1,000,000 in excess thereof and (IV) each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Specified Discount Prepayment Response Date”).

(2) Each Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its applicable then outstanding Term Loans at the Specified Discount and, if so (such accepting Lender, a “Discount Prepayment Accepting Lender”), the amount and the tranches of such Lender’s Term Loans to be prepaid at such offered discount. Each acceptance of a Discounted Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the Borrower Offer of Specified Discount Prepayment.

(3) If there is at least one Discount Prepayment Accepting Lender, the Borrower will make a prepayment of outstanding Term Loans pursuant to this paragraph (ii) to each Discount Prepayment Accepting Lender in accordance with the respective outstanding amount and tranches of Term Loans specified in such Lender’s Specified Discount Prepayment Response given pursuant to subsection (2) above; provided, that if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made pro rata among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the “Specified Discount Proration”). The Auction Agent shall promptly, and in any case within three (3) Business Days following the Specified Discount Prepayment Response Date, notify (I) the Borrower of the respective Lenders’ responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Loan Prepayment and the tranches to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date and the aggregate principal amount and the tranches of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, tranche and Type of Term Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower and such Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Borrower shall be due and payable by the Borrower on the Discounted Prepayment Effective Date in accordance with subsection (vi) below (subject to subsection (viii) below).

(iii) (1) Subject to the proviso to subsection (i) above, the Borrower may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice in the form of a Discount Range Prepayment
Notice, *provided*, that (I) any such solicitation shall be extended, at the sole discretion of the Borrower, to (x) each Lender or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate principal amount of the relevant Term Loans (the “Discount Range Prepayment Amount”), the tranche or tranches of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the “Discount Range”) of the principal amount of such Term Loans with respect to each relevant tranche of Term Loans willing to be prepaid by the Borrower (it being understood that different Discount Ranges or Discount Range Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as separate offers pursuant to the terms of this Section), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than $5,000,000 and whole increments of $1,000,000 in excess thereof and (IV) each such solicitation by the Borrower shall remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Discount Range Prepayment Response Date”). Each Lender’s Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the “Submitted Discount”) at which such Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable tranche or tranches and the maximum aggregate principal amount and tranches of such Lender’s Term Loans (the “Submitted Amount”) such Lender is willing to have prepaid at the Submitted Discount. Any Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(2) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this subsection (iii). The Borrower agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by Auction Agent by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the “Applicable Discount”) which yields a Discounted Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following subsection (3)) at the Applicable Discount (each such Lender, a “Participating Lender”).

(3) If there is at least one Participating Lender, the Borrower will prepay the respective outstanding Term Loans of each Participating Lender in the aggregate principal
amount and of the tranches specified in such Lender’s Discount Range Prepayment Offer at the Applicable Discount; provided, that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the “Identified Participating Lenders”) shall be made pro rata among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Discount Range Proration”). The Auction Agent shall promptly, and in any case within five (5) Business Days following the Discount Range Prepayment Response Date, notify (I) the Borrower of the respective Lenders’ responses to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount of the Discounted Loan Prepayment and the tranches to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount and tranches of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and tranches of such Lender to be prepaid at the Applicable Discount on such date, and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Borrower shall be due and payable by the Borrower on the Discounted Prepayment Effective Date in accordance with subsection (vi) below (subject to subsection (viii) below).

(iv) Subject to the proviso to subsection (i) above, the Borrower may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice in the form of a Solicited Discounted Prepayment Notice; provided, that (I) any such solicitation shall be extended, at the sole discretion of the Borrower, to (x) each Lender or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate amount of the Term Loans (the “Solicited Discounted Prepayment Amount”) and the tranche or tranches of Term Loans the Borrower is willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as separate offers pursuant to the terms of this Section), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than $5,000,000 and whole increments of $1,000,000 in excess thereof and (IV) each such solicitation by the Borrower shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Solicited Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time on the third Business Day after the date of delivery of such notice to such Lenders (the “Solicited Discounted Prepayment Response Date”). Each Lender’s Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date, and (z) specify both a discount to par (the “Offered Discount”) at which such Lender is willing to allow prepayment of its then outstanding Term Loan and the maximum aggregate principal amount and tranches of such Term Loans (the “Offered Amount”) such Lender is willing to have prepaid at the Offered Discount. Any Lender whose Solicited Discounted Prepayment Offer is not received by
the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount.

(2) The Auction Agent shall promptly provide the Borrower with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. The Borrower shall review all such Solicited Discounted Prepayment Offers and select the largest of the Offered Discounts specified by the relevant responding Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the Borrower (the “Acceptable Discount”), if any. If the Borrower elects to accept any Offered Discount as the Acceptable Discount, then as soon as practicable after the determination of the Acceptable Discount, but in no event later than by the third Business Day after the date of receipt by the Borrower from the Auction Agent of a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this subsection (2) (the “Acceptance Date”), the Borrower shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent fails to receive an Acceptance and Prepayment Notice from the Borrower by the Acceptance Date, the Borrower shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(3) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, within three (3) Business Days after receipt of an Acceptance and Prepayment Notice (the “Discounted Prepayment Determination Date”), the Auction Agent will determine (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the tranches of Term Loans (the “Acceptable Prepayment Amount”) to be prepaid by the Borrower at the Acceptable Discount in accordance with this Section 2.07(1)(d)(iv). If the Borrower elects to accept any Acceptable Discount, then the Borrower agrees to accept all Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro-rata reduction pursuant to the following sentence) at the Acceptable Discount (each such Lender, a “Qualifying Lender”). The Borrower will prepay outstanding Term Loans pursuant to this subsection (iv) to each Qualifying Lender in the aggregate principal amount and of the tranches specified in such Lender’s Solicited Discounted Prepayment Offer at the Acceptable Discount; provided, that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount (the “Identified Qualifying Lenders”) shall be made pro rata among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Solicited Discount Proration”). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the Borrower of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Loan Prepayment and the tranches to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the tranches to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the tranches of such Lender to be
prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Borrower shall be due and payable by the Borrower on the Discounted Prepayment Effective Date in accordance with subsection (vi) below (subject to subsection (viii) below).

(v) In connection with any Discounted Loan Prepayment, the Borrower and the Lenders acknowledge and agree that the Auction Agent may require as a condition to any Discounted Loan Prepayment, the payment of customary fees and expenses from the Borrower in connection therewith.

(vi) If any Term Loan is prepaid in accordance with paragraphs (ii) through (iv) above, the Borrower shall prepay such Loans on the Discounted Prepayment Effective Date. The Borrower shall make such prepayment to the Administrative Agent, for the account of the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent’s Office in immediately available funds not later than 11:00 a.m. (New York City time) on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the remaining principal installments of the relevant tranche of Term Loans on a pro-rata basis across such installments. The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this Section 2.07(1)(d) shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, and shall be applied to the relevant Term Loans of such Lenders in accordance with their respective Pro Rata Share. The aggregate principal amount of the tranches and installments of the relevant Term Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the tranches of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Loan Prepayment. In connection with each prepayment pursuant to this Section 2.07(1)(d), the Borrower shall make a representation to the Lenders that it does not possess Private-Side Information that has not been disclosed to Private Lenders and that may be material to the decision of a Lender to participate in such transaction.

(vii) To the extent not expressly provided for herein, each Discounted Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this Section 2.07(1)(d), established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the Borrower.

(viii) Notwithstanding anything in any Loan Document to the contrary, for purposes of this Section 2.07(1)(d), each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon the Auction Agent’s (or its delegate’s) actual receipt during normal business hours of such notice or communication; provided, that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next Business Day.

(ix) The Borrower and the Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this Section 2.07(1)(d) by itself or through any Affiliate of the Auction Agent and expressly consent to any such delegation
of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The
exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective
activities in connection with any Discounted Loan Prepayment provided for in this Section 2.07(1)(d) as well as activities of
the Auction Agent.

The Borrower shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a
Discounted Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or
Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the applicable Specified Discount Prepayment
Response Date (and if such offer is revoked pursuant to the preceding clauses, any failure by the Borrower to make any prepayment to a
Lender, as applicable, pursuant to this Section 2.07(1)(d) shall not constitute a Default or Event of Default under Section 9.01 or otherwise).
Nothing in this Section 2.07(1)(d) shall require any Lender to participate in any auction.

(2) Mandatory.

(a) [Reserved].

(b) (i) If (A) the Borrower or any of the Restricted Subsidiaries Disposes of any property or assets pursuant to Section 7.05(1), (6),
(10), (16) or (20) or (B) any Casualty Event occurs, which results in the realization or receipt by the Borrower or such Restricted Subsidiary
of Net Cash Proceeds, the Borrower shall prepay on or prior to the date which is ten (10) Business Days after the date of the realization or
receipt of such Net Cash Proceeds, subject to clause (2)(f) of this Section 2.07, an aggregate principal amount of Term Loans equal to 100%
of all Net Cash Proceeds realized or received; provided, that if at the time that any such prepayment would be required, the Borrower is
required to prepay or offer to repurchase Indebtedness that is secured by Liens on a pari passu basis with the Liens securing the Obligations
pursuant to the terms of the documentation governing such Indebtedness with the net proceeds of such Disposition or Casualty Event (such
Indebtedness required to be offered to be so repurchased, “Other Applicable Indebtedness”), then the Borrower may apply such Net Cash
Proceeds on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable
Indebtedness at such time; provided, further, that the portion of such net proceeds allocated to the Other Applicable Indebtedness shall not
exceed the amount of such net proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the
remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof) to the prepayment
of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans
that would have otherwise been required pursuant to this Section 2.07(2)(b)(i) shall be reduced accordingly; provided, further, that to the
time the holders of Other Applicable Indebtedness decline to have such indebtedness repurchased or prepaid, the declined amount shall
promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance
with the terms hereof; provided, further, that no prepayment shall be required pursuant to this Section 2.07(2)(b)(i) with respect to such
portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of
its intent to reinvest in accordance with Section 2.07(2)(b)(ii).

(ii) With respect to any Net Cash Proceeds realized or received with respect to any Disposition (other than any
Disposition specifically excluded from the application of Section 2.07(2)(b)(ii) or any Casualty Event, at the option of the
Borrower, the Borrower may reinvest (directly, or through one or more of its Restricted Subsidiaries) all or any portion of such Net
Cash Proceeds in assets used or useful for the business of the Borrower and its
Restricted Subsidiaries (A) within twelve (12) months following receipt of such Net Cash Proceeds or (B) if the Borrower or any of its Restricted Subsidiaries enters into a legally binding commitment to reinvest such Net Cash Proceeds within twelve (12) months following receipt of such Net Cash Proceeds, no later than one hundred and eighty (180) days after the end of such twelve (12) month period; provided, that if any Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, and subject to clauses (f) and (g) of this Section 2.07(2), an amount equal to any such Net Cash Proceeds shall be applied within five (5) Business Days after the Borrower or such Restricted Subsidiary reasonably determines that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Term Loans as set forth in this Section 2.07(2)(b).

(c) If the Borrower or any Restricted Subsidiary incurs or issues any Indebtedness (i) not expressly permitted to be incurred or issued pursuant to Section 7.03 or (ii) that constitutes Credit Agreement Refinancing Indebtedness, the Borrower shall prepay an aggregate principal amount of Revolving Loans (and permanently reduce aggregate Revolving Commitments) and Term Loans equal to 100% of all Net Cash Proceeds received therefrom (plus, without duplication, any commitments in respect thereof) on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds (in the case of clause (i)) and substantially concurrently with the incurrence of such Credit Agreement Refinancing Indebtedness (in the case of clause (ii)).

(d) If at any time, the aggregate principal amount of Total Utilization of Revolving Commitments exceeds the Revolving Commitments at such time, the Borrower shall, in each case, forthwith, upon notification by the Administrative Agent, prepay the Swing Line Loans first and then the other Revolving Loans then outstanding in an amount equal to such excess. If any such excess remains after repayment in full of the aggregate outstanding Swing Line Loans and the other Revolving Loans, the Borrowers shall Cash Collateralize the Letter of Credit Obligations in the manner set forth in Section 2.04(10) in an amount equal to 103% of such excess.

(e) (i) Except as may otherwise be set forth in any Refinancing Amendment, Extension Amendment or any Incremental Amendment, each prepayment of (x) Revolving Loans (and termination of Revolving Commitments) and Term Loans pursuant to Section 2.07(2)(c) and (y) Term Loans pursuant to Section 2.07(2)(b), shall be applied, to the extent applicable to such Facilities, ratably to each Class of Term Loans and Revolving Commitments then outstanding (provided, that any prepayment of Term Loans and Revolving Loans (and termination of Revolving Commitments) with the Net Cash Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt),

(ii) with respect to each Class of Loans (other than Revolving Loans or Swing Line Loans), each prepayment pursuant to clauses (b) and (c) of this Section 2.07(2) shall be applied to remaining scheduled installments of principal thereof following the date of prepayment (other than payments due upon maturity thereof) on a pro rata basis, and

(iii) each such prepayment and commitment reduction shall be paid to the Lenders in accordance with their respective Pro Rata Shares of such prepayment.

Notwithstanding any other provisions of this Section 2.07(2), (i) to the extent that any or all of the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.07(2)(b) (a “Foreign Disposition”) or the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a “Foreign Casualty Event”) are prohibited or delayed by applicable local law (including, without limitation, as a result of laws or regulations relating to financial assistance, corporate
benefit, restrictions on upstreaming of cash intragroup and fiduciary and statutory duties of directors of relevant subsidiaries) from being repatriated to the United States, the portion of such Net Cash Proceeds so affected will not be required to be applied to repay Term Loans and (ii) to the extent that the Borrower has determined in good faith that repatriation to the United States of any or all the Net Cash Proceeds of any Foreign Disposition, any Foreign Casualty Event of a Foreign Subsidiary would have material adverse tax consequences (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds, the Net Cash Proceeds so affected will not be required to be applied to repay Term Loans. The non-application of Net Cash Proceeds as a consequence of this Section will not constitute an Event of Default under this Agreement. Such amounts shall not be deemed to be Net Cash Proceeds, regardless of whether the limitations set forth above in clauses (i) or (ii) cease to apply after such initial determination.

(f) The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans and commitment reductions pursuant to Section 2.07(2)(b), (c), or (d) three (3) Business Days prior to the date on which such payment and commitment reduction is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment and commitment reduction on or before the date specified in Section 2.07(2)(b), (c) or (d), as the case may be (each, a “Prepayment Date”). Once given, such notice shall be irrevocable (provided, that the Borrower may rescind any notice of prepayment and commitment reduction under Section 2.07(2)(b) or (c) if such prepayment would have resulted from a refinancing of all or any portion of the applicable Facility or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in the last sentence of this Section 2.07(2)(f)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Lender of the prepayment and commitment reduction, the Prepayment Date and of such Lender’s Pro Rata Share of the prepayment and commitment reduction. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment of Term Loans (other than any mandatory prepayment with the proceeds of any Credit Agreement Refinancing Indebtedness) by giving notice of such election in writing to the Administrative Agent by 11:00 a.m.(New York City time), on the date that is one (1) Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share of the total amount of such mandatory prepayment of Term Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(3) Interest, Funding Losses, Etc. All prepayments and commitment reductions under this Section 2.07 shall be accompanied by all accrued interest and fees thereon, together with, in the case of any such prepayment of a Eurodollar Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such Eurodollar Rate Loan pursuant to Section 3.05.

(4) Application of Prepayment Amounts. In the event that the obligation of the Borrower to prepay the Loans shall arise pursuant to subsection (2) above, (a) first, the Borrower shall prepay the outstanding principal amount of the Revolving Loans and Term Loans in the amount of such prepayment obligation within the applicable time periods specified in subsection (2) above, with such prepayment to be applied in the manner set forth in Section 2.07(2)(e) above, (b) second, to the extent of any excess remaining after the prepayment as provided in clause (a) above, the Borrower shall prepay the outstanding...
principal amount of the Swing Line Loans, without a corresponding permanent reduction to the Revolving Commitments, (c) third, to the extent of any excess remaining after the prepayment as provided in clauses (a) and (b) above, the Borrower shall prepay the outstanding principal amount of the Revolving Loans, without a corresponding permanent reduction to the Revolving Commitments and (d) fourth, to the extent of any excess remaining after application as provided in clauses (a), (b) and (c) above, the Borrower shall pay any outstanding Reimbursement Obligations, and thereafter the Borrower shall Cash Collateralize the Letter of Credit Usage to the extent required under Section 2.04(10). Each payment or prepayment pursuant to the provisions of this Section 2.07(4) shall be applied ratably among the Lenders holding the Loans being prepaid, in proportion to the principal amount held by each, and shall be applied as among the Revolving Loans or Term Loans, as the case may be, being prepaid, (i) first, to repay all Base Rate Loans, and (ii) second, to the extent of any excess remaining after application as provided in clause (i) above, to prepay all Eurodollar Rate Loans (and as among Eurodollar Rate Loans, (A) first, to prepay those Eurodollar Rate Loans, if any, having Interest Periods ending on the date of such prepayment, and (B) thereafter, to the extent of any excess remaining after application as provided in clause (A) above, to prepay any Eurodollar Rate Loans in the order of the expiration dates of the Interest Periods applicable thereto).

Notwithstanding any of the other provisions of this Section 2.07, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurodollar Rate Loans is required to be made under this Section 2.07 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.07 in respect of any such Eurodollar Rate Loan, prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.07. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.07.

SECTION 2.08 Termination or Reduction of Commitments

(1) Optional. The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; provided, that (a) any such notice shall be received by the Administrative Agent one (1) Business Day prior to the date of termination or reduction, (b) any such partial reduction shall be in an aggregate amount of $1,000,000 or any whole multiple of $250,000 in excess thereof or, if less, the entire amount thereof and (c) the Borrower shall not terminate or reduce (i) the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.07, the Total Utilization of Revolving Commitments would exceed the total Revolving Commitments, (ii) the Letter of Credit Sublimit if, after giving effect thereto, the Letter of Credit Usage not fully Cash Collateralized hereunder at 103% of the maximum face amount of any then outstanding Letters of Credit would exceed the Letter of Credit Sublimit or (iii) the Swing Line Sublimit if, after giving effect to any concurrent prepayment of Swing Line Loans in accordance with Section 2.07, the Total Utilization of Revolving Commitments with respect to Swing Line Loans would exceed the Swing Line Sublimit. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or otherwise shall be delayed.
(2) **Mandatory.**

(a) The Revolving Commitments shall terminate on the Revolving Commitment Termination Date.

(b) The Term A-1 Loan Commitment of each Lender shall be automatically and permanently reduced to $0 upon the making of such Lender’s Term A-1 Loans pursuant to Section 2.01.

(c) If after giving effect to any reduction or termination of Revolving Commitments under this Section 2.08, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Revolving Commitments at such time, the Letter of Credit Sublimit or the Swing Line Sublimit, as the case may be, shall be automatically reduced by the amount of such excess.

(3) **Effect of Termination or Reduction.** Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Pro Rata Share of Commitments of such Class.

**SECTION 2.09 Repayment of Loans.**

(1) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders the outstanding principal amount of the Revolving Loans on the Revolving Commitment Termination Date.

(2) The Borrower shall repay to the Swing Line Lender (or, to the extent required by Section 2.03(3), to the Administrative Agent for the account of the Revolving Lenders) each Swing Line Loan made by the Swing Line Lender on the earlier to occur of (a) the date seven (7) Business Days after such Swing Line Loan is made and (b) the Maturity Date of the Revolving Loans, provided, that on each date that a Revolving Loan is made, the Borrower shall repay all Swing Line Loans then outstanding. At any time that there shall exist a Defaulting Lender that is a Revolving Lender, immediately upon the request of the Swing Line Lender, the Borrower shall repay the outstanding Swing Line Loans made by the Swing Line Lender in an amount sufficient to eliminate any Fronting Exposure in respect of the Swing Line Loans.

(3) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (a) on the last Business Day of each March, June, September and December, commencing with the last Business Day of the first full fiscal quarter that begins after the Restatement Effective Date, an aggregate principal amount equal to 1.25% of the aggregate principal amount of all Term A-1 Loans outstanding on the Restatement Effective Date (which payments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.07) and (b) on the Maturity Date for the Term A-1 Loans, the aggregate principal amount of all Term A-1 Loans outstanding on such date.

**SECTION 2.10 Interest.**

(1) Subject to the provisions of Sections 2.10(2) and 2.10(3), (a) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted Eurodollar Rate for such Interest Period plus the Applicable Rate, (b) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate, and (c) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.
(2) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(3) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(4) Accrued and unpaid interest on the amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand.

(5) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.

(6) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for any Eurodollar Rate Loans upon determination of such interest rate. The determination of the Adjusted Eurodollar Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the Administrative Agent’s prime rate used in determining the Base Rate promptly following the public announcement of such change.

(7) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; provided, that after the establishment of any new Class of Loans pursuant to a Refinancing Amendment or Extension, the number of Interest Periods otherwise permitted by this Section 2.10(7) shall increase by three (3) Interest Periods for each applicable Class so established.

SECTION 2.11 Fees.

(1) The Borrower shall pay to the Agents and the Lenders such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(2) The Borrower agrees to pay to Lenders having Revolving Exposure:

(a) commitment fees for the period from and including the Closing Date to and including the Revolving Commitment Termination Date equal to (i) the average of the daily difference between (A) the Revolving Commitments and (B) the sum of (x) the aggregate principal amount of all outstanding Revolving Loans (for the avoidance of doubt, excluding Swing Line Loans) plus (y) the Letter of Credit Usage, times (2) the Applicable Commitment Fee; and

-98-
(b) subject to Section 2.19(1)(b), letter of credit fees with respect to all Letters of Credit (the “L/C Fee”) equal to (1) the Applicable Rate for Revolving Loans that are Eurodollar Rate Loans, times (2) the average aggregate daily maximum amount available to be drawn under all Letters of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit). Notwithstanding anything herein to the contrary, while any Event of Default exists, all L/C Fees shall accrue at the applicable Default Rate.

All fees referred to in this Section 2.11(2) shall be paid to the Administrative Agent at the Administrative Agent’s Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(3) The Borrower agrees to pay directly to the Issuing Bank, for its own account, the following fees:

(a) a fronting fee equal to 0.125% per annum times the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit) (determined as of the close of business on any date of determination); and

(b) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with the Issuing Bank’s standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be, which fees, costs and charges shall be payable to the Issuing Bank within three Business Days after its demand therefor and are nonrefundable.

(4) All fees referred to in Sections 2.11(2) and 2.11(3)(a) shall be payable quarterly in arrears on the last Business Day of each March, June, September and December of each year during the Revolving Commitment Period, commencing on the first such date to occur after the Closing Date, and on the Revolving Commitment Termination Date; provided, that any such fees accruing after the Revolving Commitment Termination Date shall be payable on demand.

(5) The Borrower agrees to pay to the Administrative Agent for its own account the fees payable in the amounts and at the times separately agreed upon as set forth in the Fee Letter.

SECTION 2.12 Computation of Interest and Fees. All computations of interest for Base Rate Loans calculated by reference to the “prime rate” shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided, that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(1), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

SECTION 2.13 Evidence of Indebtedness.

(1) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by
the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence the relevant Class of such Lender’s Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(2) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.13(1), and by each Lender in its account or accounts pursuant to Section 2.13(1), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided, that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.14 Payments Generally

(1) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent’s Office for payment and in Same Day Funds not later than 2:00 p.m. (New York City time) on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender’s Lending Office; provided, that the proceeds of any borrowing of Revolving Loans to finance the reimbursement of a drawn Letter of Credit as provided in Section 2.04(3) shall be remitted by the Administrative Agent to the Issuing Bank. All payments received by the Administrative Agent after 2:00 p.m. (New York City time) shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(2) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(3) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder for the account of any Lender or the Issuing Bank, as applicable, that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender or the Issuing Bank. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender or the Issuing Bank, as applicable, shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or the Issuing Bank.
in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or the Issuing Bank, as applicable, to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(4) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(5) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(6) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(7) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender’s Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(8) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.03(3), 2.04(3), 2.06, 2.15 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (a) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender’s obligations to the Administrative Agent, the Swing Line Lender or the Issuing Bank, as applicable, to satisfy such Lender’s obligations to the Administrative Agent, the Swing Line Lender and the Issuing Bank until all such unsatisfied obligations are fully paid or (b) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (a) and (b) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.15 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans of a particular Class made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (1) notify the Administrative Agent of such fact, and (2) purchase from the other Lenders such participations in the Loans made by them or such subparticipations in the participations in Letter of Credit obligations or Swing Line Loans held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans.
or such participations, as the case may be, pro rata with each of them; provided, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender’s ratable share (according to the proportion of (a) the amount of such paying Lender’s required repayment to (b) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (i) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time, (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (iii) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.16 Incremental Borrowings.

(1) Notice. At any time and from time to time, on one or more occasions, the Borrower may, by notice to the Administrative Agent (a) increase the aggregate principal amount of any outstanding tranche of Term Loans, (b) add one or more additional tranches of term loans under the Loan Documents (the “Incremental Term Facilities” and the term loans made thereunder, the “Incremental Term Loans”) or (c) increase the aggregate principal amount of Revolving Commitments (the “Incremental Revolving Facilities” and the revolving loans and other extensions of credit made thereunder, the “Incremental Revolving Loans”) (each such increase or tranche pursuant to clauses (a), (b) and (c), an “Incremental Facility” and the loans or other extensions of credit thereunder, the “Incremental Loans”).

(2) Ranking. Incremental Facilities shall rank pari passu in right of payment with, and be secured on a pari passu basis with, the Revolving Commitments and the Initial Term Loans.

(3) Size. The aggregate principal amount of Incremental Facilities on any date Indebtedness thereunder is first incurred (or commitments with respect thereto are provided), together with the aggregate principal amount of Incremental Equivalent Debt outstanding at such time, will not exceed an amount equal to (a) the Fixed Incremental Amount plus (b) the Ratio Amount (the sum of the Fixed Incremental Amount and the Ratio Amount, the “Incremental Amount”). Calculation of the Ratio Amount, if used, shall be made on a Pro Forma Basis and evidenced by a certificate from a Responsible Officer of the Borrower demonstrating such calculation in reasonable detail. Each Incremental Amendment executed in connection with an Incremental Facility shall identify whether all or any portion of such Incremental Facility is being incurred pursuant to clause (a) or (b) above; provided, that unless the Borrower elects otherwise, each Incremental Facility will be deemed to be incurred (i) first against the Ratio Amount to the extent permitted and (ii) thereafter against the Fixed Incremental Amount. For the avoidance of doubt, if the Borrower incurs indebtedness under an Incremental Facility under the Fixed
Incremental Amount on the same date that it incurs indebtedness under the Ratio Amount, then (if applicable) the Senior Secured Net Leverage Ratio and the Total Net Leverage Ratio will be calculated with respect to such incurrence under the Ratio Amount without regard to any incurrence of indebtedness under the Fixed Incremental Amount. Each Incremental Facility will be in an integral multiple of $1,000,000 and in an aggregate principal amount that is not less than $20,000,000 (or such lesser minimum amount approved by the Administrative Agent in its reasonable discretion); provided, that such amount may be less than such minimum amount or integral multiple amount if such amount represents all the remaining availability under the limit set forth above.

(4) **Incremental Lenders.** Incremental Facilities may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Incremental Loan) or by any Additional Lender, in each case, on terms permitted by this Section 2.16.

(5) **Incremental Facility Amendments; Use of Proceeds.** Each Incremental Facility will become effective pursuant to an amendment (each, an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower, each Person providing such Incremental Facility and the Administrative Agent. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Incremental Amendment. Incremental Amendments may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.16. An Incremental Amendment may (a) extend or add “call protection” to any existing tranche of Term Loans and (b) amend the schedule of amortization payments relating to any existing tranche of Term Loans (provided, that any such amendment shall not decrease any amortization payment to any Lender that would have otherwise been payable to such Lender prior to the effectiveness of the applicable Incremental Amendment), in the case of each clause (a) and (b), so that such Incremental Term Loans and the applicable existing Term Loans form the same Class of Term Loans; provided, further, that such amendments are not materially adverse to the existing Term Loan Lenders (as determined in good faith by the Borrower). Each of the parties hereto hereby agrees that upon the effectiveness of any Incremental Amendment, this Agreement and the other Loan Documents, as applicable, will be amended to the extent necessary to reflect the existence and terms of the Incremental Facility and the Incremental Loans evidenced thereby. The parties acknowledge and agree that any Incremental Amendment may effect modifications to the Loan Documents that are favorable to the Lenders (as reasonably determined by the Administrative Agent) to conform to any Incremental Term Facility without the consent of the Lenders. This Section 2.16 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. The Borrower may use the proceeds of the Incremental Loans for any purpose not prohibited by this Agreement.

(6) **Conditions.** The availability of Incremental Facilities under this Agreement will be subject solely to the following conditions:

(a) (i) no Default or Event of Default shall have occurred and be continuing on the date such Incremental Facilities are incurred or would exist immediately after giving effect thereto (subject to Section 1.08(5)) or (ii) in the case of Incremental Facilities incurred in connection with a Permitted Acquisition or another investment permitted hereunder, no Specified Event of Default shall have occurred and be continuing on the date such Incremental Facilities are incurred or would exist immediately after giving effect thereto (subject to Section 1.08(5)); and

(b) the representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) immediately prior to, and immediately after giving effect to, the incurrence of such
Incremental Facilities; provided, that in connection with any Incremental Facility being incurred in connection with a Limited Condition Acquisition, the condition set forth in this clause (b) shall only be required with respect to the Specified Representations and customary “acquisition agreement representations” as may be agreed to by the Borrower and the applicable incremental lenders.

(7) **Terms.** Each Incremental Amendment will set forth the amount and terms of the relevant Incremental Facility. The terms of each tranche of Incremental Loans will be as agreed between the Borrower and the Persons providing such Incremental Loans; provided, that:

(a) Incremental Term Facilities shall be subject to the Specified Term Loan Requirements; and

(b) any amendments to the operational and agency provisions of this Agreement shall be reasonably satisfactory to the Administrative Agent.

(8) **Pricing.** The interest rate, fees, and original issue discount for any Incremental Term Loans will be as determined by the Borrower and the Persons providing such IncrementalTerm Loans.

(9) **Adjustments to Revolving Loans.** Upon each increase in the Revolving Commitments pursuant to this Section 2.16,

(a) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each lender providing a portion of such increase (each an “Incremental Revolving Facility Lender”), and each such Incremental Revolving Facility Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Lender’s participations hereunder in outstanding Letters of Credit and Swing Line Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (i) participations hereunder in Letters of Credit and (ii) participations hereunder in Swing Line Loans held by each Revolving Lender will equal the percentage of the aggregate Revolving Commitments of all Lenders represented by such Revolving Lender’s Revolving Commitments; and

(b) if, on the date of such increase, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such Incremental Revolving Facility be prepaid from the proceeds of Incremental Revolving Loans made hereunder (reflecting such increase in Revolving Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 3.05.

The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this Section 2.16(9).

**SECTION 2.17 Refinancing Amendments.**

(1) **Refinancing Loans.** At any time after the Closing Date, the Borrower may obtain, from any Lender or any Additional Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Term Loans or Revolving Loans then outstanding under this Agreement, in the form of Refinancing Loans or Refinancing Commitments in each case pursuant to a Refinancing Amendment.
Refinancing Amendments. The effectiveness of any Refinancing Amendment will be subject only to the satisfaction on the date thereof of such of the conditions set forth in Section 4.01 as may be requested by the providers of applicable Refinancing Loans. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement will be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Loans incurred pursuant thereto (including any amendments necessary to treat the Term Loans or Revolving Loans subject thereto as Refinancing Term Loans or Refinancing Revolving Loans, respectively).

Required Consents. Any Refinancing Amendment may, without the consent of any Person other than the Administrative Agent, the Borrower and the Persons providing the applicable Refinancing Loans, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.17. This Section 2.17 supersedes any provisions in Section 11.01 to the contrary.

Providers of Refinancing Loans. Refinancing Loans may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Refinancing Loan) or by any Additional Lender on terms permitted by this Section 2.17.

SECTION 2.18 Extensions of Loans.

(1) Extension Offers. Pursuant to one or more offers (each, an “Extension Offer”) made from time to time by the Borrower to all Lenders holding Loans or Commitments of a particular Class with a like Maturity Date, the Borrower may extend such Maturity Date and otherwise modify the terms of such Loans or Commitments pursuant to the terms set forth in an Extension Offer (each, an “Extension,” and each group of Loans or Commitments so extended, as well as any Loans of the same Class not so extended, each being a “tranche”). Each Extension Offer will specify the minimum amount of Loans or Commitments with respect to which an Extension Offer may be accepted, which will be an integral multiple of $1,000,000 and an aggregate principal amount that is not less than $10,000,000, or if less, (i) the aggregate principal amount of such Loans outstanding or (ii) such lesser minimum amount as is approved by the Administrative Agent, such consent not to be unreasonably withheld, conditioned or delayed. Extension Offers will be made on a pro rata basis to all Lenders holding Loans or Commitments of a particular Class with a like Maturity Date. If the aggregate outstanding principal amount of such Loans (calculated on the face amount thereof) or Commitments in respect of which Lenders have accepted an Extension Offer exceeds the maximum aggregate principal amount of Loans or Commitments offered to be extended pursuant to such Extension Offer, then the Loans or Commitments of such Lenders will be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer. There is no requirement that any Extension Offer or Extension Amendment (defined as follows) be subject to any “most favored nation” pricing provisions. The terms of an Extension Offer shall be determined by the Borrower, and Extension Offers may contain one or more conditions to their effectiveness, including a condition that a minimum amount of Loans or Commitments of any or all applicable tranches be tendered.

(2) Extension Amendments. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (an “Extension Amendment”) as may be necessary in order to establish new tranches in respect of Extended Loans and Extended Commitments and such amendments as permitted by clause (5) below as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with
the establishment of such new tranches of Loans. This Section 2.18 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. Except as otherwise set forth in an Extension Offer, there will be no conditions to the effectiveness of an Extension Amendment. Extensions will not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(3) Terms of Extension Offers and Extension Amendments. The terms of any Extended Loans and Extended Commitments will be set forth in an Extension Offer and as agreed between the Borrower and the Extending Lenders accepting such Extension Offer; provided, that:

   (a) the final maturity date of such Extended Loans and Extended Commitments will be no earlier than the Latest Maturity Date applicable to the Loans or Commitments subject to such Extension Offer;

   (b) the Weighted Average Life to Maturity of any Extended Loans that are Term Loans will be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans subject to such Extension Offer;

   (c) any Extended Loans that are Term Loans may participate on a pro rata basis or a less than a pro rata basis (but not greater than a pro rata basis) with the Term Loans in connection with any mandatory prepayments, repayments or application of funds upon the exercise of rights or remedies or the collection on account of any Collateral;

   (d) such Extended Loans and Extended Commitments are not secured by any assets or property that does not constitute Collateral;

   (e) such Extended Loans and Extended Commitments are not guaranteed by any Subsidiary of the Borrower other than a Guarantor; and

   (f) the covenants and events of default applicable to Extended Loans or Extended Commitments are either (i) substantially identical to or, taken as a whole, no more favorable to the Lenders providing such Extended Loans or Extended Commitments than those applicable to the Loans subject to such Extension Offer, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment or (ii) otherwise on customary market terms, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment; provided, that this clause (f) will not apply:

      (A) to (1) terms addressed in the preceding clauses (a) through (f), (2) interest rate, fees, funding discounts and other pricing terms, (3) redemption, prepayment or other premiums, (4) optional prepayment terms, (5) redemption terms, and (6) covenants and events of default applicable only to periods after the Latest Maturity Date at the time of incurrence of such Indebtedness; or

      (B) if an Extension Offer is made to all the Loans or Commitments of a particular Class and all such Loans or Commitments are accepted in such Extension Offer and amended pursuant to the applicable Extension Amendment.

Any Extended Loans will constitute a separate tranche of Term Loans or Revolving Loans from the Term Loans or Revolving Loans held by Lenders that did not accept the applicable Extension Offer.

(4) Extension of Revolving Commitments. In the case of any Extension of Revolving Commitments or Revolving Loans, the following shall apply:

-106-
(a) all borrowings and all prepayments of Revolving Loans shall continue to be made on a ratable basis among all
Revolving Lenders, based on the relative amounts of their Revolving Commitments, until the repayment of the Revolving Loans
attributable to the non-extended Revolving Commitments on the relevant Maturity Date;

(b) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of
Credit or Swing Line Loan as between the Revolving Commitments of such new tranche and the remaining Revolving Commitments
shall be made on a ratable basis in accordance with the relative amounts thereof until the Maturity Date relating to such non-extended
Revolving Commitments has occurred;

(c) no termination of extended Revolving Commitments and no repayment of extended Revolving Loans accompanied by a
corresponding permanent reduction in extended Revolving Commitments shall be permitted unless such termination or repayment
(and corresponding reduction) is accompanied by at least a pro rata termination or permanent repayment (and corresponding pro rata
permanent reduction), as applicable, of each other tranche of Revolving Loans and Revolving Commitments (or each other tranche of
Revolving Commitments and Revolving Loans shall have otherwise been terminated and repaid in full);

(d) the Maturity Date with respect to the Revolving Commitments may not be extended without the prior written consent of
the Issuing Bank and the Swing Line Lender; and

(e) at no time shall there be more than five (5) different tranches of Revolving Commitments.

If the Total Utilization of Revolving Commitments exceeds the Revolving Commitment as a result of the occurrence of the Maturity
Date with respect to any tranche of Revolving Commitments while an extended tranche of Revolving Commitments remains outstanding, the
Borrower shall make such payments as are necessary in order to eliminate such excess on such Maturity Date.

(5) **Required Consents.** Subject to Section 2.18(4)(d), no consent of any Lender or any other Person will be required to effectuate
any Extension, other than the consent of the Administrative Agent (such consent not to be unreasonably withheld, delayed or condition), the
Borrower and the applicable Extending Lender. The transactions contemplated by this Section 2.18 (including, for the avoidance of doubt,
payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Offer)
will not require the consent of any other Lender or any other Person, and the requirements of any provision of this Agreement or any other
Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.18 will not apply to
any of the transactions effected pursuant to this Section 2.18.

**SECTION 2.19 Defaulting Lenders.**

(1) **Defaulting Lender Adjustments.** Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes
a Defaulting Lender, then until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(a) **Waivers and Amendments.** Such Defaulting Lender’s right to approve or disapprove of any amendment, waiver or
consent with respect to this Agreement or any other Loan Document shall be restricted as set forth in Section 11.01 unless otherwise
agreed by the Borrower and the Administrative Agent.
(b) **Defaulting Lender Waterfall.** Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Bank or the Swing Line Lender hereunder; *third*, to Cash Collateralize the Issuing Bank’s (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) or the Swing Line Lender’s Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.19(4); *fourth*, as the Borrower may request (so long as no Event of Default shall have occurred and be continuing), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a Cash Collateral Account and released pro rata in order to (x) satisfy such Defaulting Lender’s potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Bank’s (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) or the Swing Line Lender’s future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit or Swing Line Loans, as applicable, issued under this Agreement, in accordance with Section 2.19(4); *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Bank or the Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Agent, Lender, the Issuing Bank or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; *seventh*, so long as no Event of Default shall have occurred and be continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided*, that if (x) such payment is a payment of the principal amount of any Loans or Reimbursement Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Reimbursement Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Reimbursement Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans are held by the Lenders pro rata in accordance with the applicable Commitments without giving effect to Section 2.19(1)(d). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.19(1)(b) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) **Certain Fees.**

(i) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 2.11(2) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender); *provided*, that such Defaulting Lender shall be entitled to receive fees pursuant to Section 2.11(2)(b) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro
Rata Share of the Stated Amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.04.

(ii) With respect to any fees not required to be paid to any Defaulting Lender pursuant to clause (i) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender’s participation in Letters of Credit or Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (d) below, (y) pay to the Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the Issuing Bank’s Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(d) **Reallocation of Participations to Reduce Fronting Exposure.** All or any part of such Defaulting Lender’s participation in Letters of Credit and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender’s Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender’s Revolving Commitment. Subject to Section 2.19(f), no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender’s increased exposure following such reallocation.

(e) **Cash Collateral.** If the reallocation described in clause (d) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (i) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders’ Fronting Exposure and (ii) second, Cash Collateralize Issuing Banks’ Fronting Exposure (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) in accordance with the procedures set forth in Section 2.04.

(f) **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Solely to the extent an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties hereto, each such party hereto acknowledges that any liability of any Lender or Agent that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(i) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or Agent that is an EEA Financial Institution; and

(ii) the effects of any Bail-in Action on any such liability, including, if applicable:

(A) a reduction in full or in part or cancellation of any such liability;

(B) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such
shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under
this Agreement or any other Loan Document; or

(C) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion
Powers of any EEA Resolution Authority.

(2) Defaulting Lender Cure. If the Borrower, the Administrative Agent and each Swing Line Lender and the Issuing Bank agree in
writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the
effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any
Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such
other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in
Letters of Credit and Swing Line Loans to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving
effect to Sections 2.04 and 2.19(1)(d)) whereupon such Lender will cease to be a Defaulting Lender. provided, that no adjustments will be
made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting
Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting
Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting
Lender.

(3) New Swing Line Loans/Letters of Credit. So long as any Revolving Lender is a Defaulting Lender, (i) the Swing Line Lender
shall not be required to fund any Swing Line Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such
Swing Line Loan and (ii) the Issuing Bank shall not be required to issue, extend or amend any Letter of Credit unless it is satisfied that it will
have no Fronting Exposure after giving effect thereto.

(4) Cash Collateral. At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written
request of the Administrative Agent, the Issuing Bank (with a copy to the Administrative Agent) or the Swing Line Lender (with a copy to the
Administrative Agent) the Borrower shall Cash Collateralize the Issuing Banks’ Fronting Exposure or the Swing Line Lenders’ Fronting
Exposure, as the case may be, with respect to such Defaulting Lender (determined after giving effect to Sections 2.04 and 2.19(1)(d) and any
Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(a) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby
grants to the Administrative Agent, for the benefit of the Issuing Bank and the Lenders (including the Swing Line Lender), and agrees to
maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender’s obligation to fund participations in
respect of Letters of Credit and Swing Line Loans, to be applied pursuant to clause (b) below. If at any time the Administrative Agent
determines that the Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Bank or the
Lenders as herein provided (other than Liens permitted by Section 7.01), or that the total amount of such Cash Collateral is less than the
Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative
Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by
the Defaulting Lender).

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this
Section 2.19 in respect of Letters of Credit, Swing Line Loans or otherwise shall be applied to the satisfaction of the Defaulting Lender’s
obligation to fund participations
therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) **Termination of Requirement**. Cash Collateral (or the appropriate portion thereof) provided to reduce the Issuing Banks’ or the Swing Line Lender’s Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.19 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender) or (ii) the determination by the Administrative Agent and the Issuing Bank or the Swing Line Lender, as the case may be, that there exists excess Cash Collateral; provided, that subject to the other provisions of this Section 2.19, the Person providing Cash Collateral and the Issuing Banks or the Swing Line Lender, as the case may be, may agree that the Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; provided, further, that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(5) **Hedge Banks**. So long as any Lender is a Defaulting Lender, such Lender shall not be a Hedge Bank with respect to any Secured Hedge Agreement entered into while such Lender was a Defaulting Lender.

ARTICLE III

**Taxes, Increased Costs Protection and Illegality**

SECTION 3.01 **Taxes**.

(1) Except as required by Law, any and all payments by or on account of any obligation of the Borrower or any Guarantor to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all liabilities (including additions to tax, penalties and interest) with respect thereto (collectively, “Taxes”). If any Law requires the deduction or withholding of any Tax by a Withholding Agent from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the applicable Withholding Agent shall make such deduction or withholding and shall pay the full amount deducted to the relevant taxing authority, (ii) within thirty (30) days after the date of payment by a Loan Party of any such Taxes pursuant to this Section 3.01(1) (or, if receipts or evidence are not available within thirty (30) days, as soon as practicable thereafter), such Loan Party shall furnish to the Administrative Agent the original or a facsimile copy of a receipt evidencing payment thereof, or other evidence of payment reasonably satisfactory to the Administrative Agent and (iii) to the extent such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after making all required deductions and withholdings (including such deductions and withholdings applicable to the additional sums payable under this Section 3.01(1)), the applicable Lender (or, in the case of a payment received by an Agent for its own account, such Agent) receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(2) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent.
Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender shall, whenever a lapse in time or change in circumstances renders such documentation (including any specific documentation required below in Section 3.01(3)) expired, obsolete or inaccurate in any respect, deliver promptly to the Borrower and the Administrative Agent or promptly notify the Borrower and the Administrative Agent in writing of its inability to do so. Notwithstanding anything to the contrary in the preceding three sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 3.01(3)(a), (b)(i), (b)(ii), (b)(iii), (b)(iv), and (c), below) shall not be required if in the Lender’s reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(3) Without limiting the generality of the foregoing in Section 3.01(2):

(a) Each Lender that is a “United States person” (within the meaning of Section 7701(a)(30) of the Code) (each, a “U.S. Lender”) shall deliver to the Borrower and the Administrative Agent, on or prior to the date on which such U.S. Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two (2) original copies of accurate, complete and signed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to U.S. federal backup withholding tax.

(b) Each Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “Foreign Lender”) shall deliver to the Borrower and the Administrative Agent, on or prior to the date on which such Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and original signed copies of whichever of the following is applicable:

(i) IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor form) certifying that it is entitled to benefits under an income tax treaty to which the United States is a party;

(ii) IRS Form W-8ECI (or any successor form) certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States;

(iii) if the Foreign Lender is claiming the benefits of the exemption for portfolio interest, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not (A) a bank within the meaning of Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder within the meaning of Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrower within the meaning of Section 864(d) of the Code (a “Non-Bank Certificate”), and (y) an IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor form), certifying that the Foreign Lender is not a “United States person” within the meaning of Section 7701(a)(30) of the Code;

(iv) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor form) of the Foreign Lender, accompanied by, as and to the extent applicable, IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor form), IRS Form W-8ECI (or any

-112-
successor form), a Non-Bank Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9 (or any successor form), and any other required supporting information from each beneficial owner; provided, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Non-Bank Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner; or

(v) any other form prescribed by applicable requirements of U.S. federal income tax law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax on any payments to such Lender under any Loan Document.

(c) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (b), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

Notwithstanding anything to the contrary in this Section 3.01(3), no Lender shall be required to deliver any documentation that it is not legally eligible to deliver.

(4) The Administrative Agent shall, on or before the date on which it becomes a party hereto, deliver to the Borrower two (2) accurate, complete and original signed copies of (i) IRS Form W-9 or (ii) a U.S. branch withholding certificate on IRS Form W-8IMY evidencing its agreement with the Borrower to be treated as a “United States person” within the meaning of Section 7701(a)(30) of the Code with respect to amounts received on account of any Lender, and IRS Form W-8ECI (with respect to amounts received on its own account).

(5) The Borrower agrees to pay any and all present or future stamp, court or documentary taxes, and any other property, intangible, filing or mortgage recording taxes or charges or similar levies, imposed by any Governmental Authority which arise from any payment made under any Loan Document (including additions to tax, penalties and interest related thereto) or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document, excluding, in each case, any Excluded Taxes and any such amounts imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such non-excluded Taxes described in this Section 3.01(5) being hereinafter referred to as “Other Taxes”).

(6) If any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) are directly asserted against any Agent or Lender, such Agent or Lender may pay such Indemnified Taxes and the Borrower will promptly indemnify and hold harmless such Agent or Lender for the full amount of such Indemnified Taxes and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly
or legally imposed or asserted by the relevant Governmental Authority. Payments under this Section 3.01(6) shall be made within ten (10) days after the date Borrower receives written demand for payment from such Agent or Lender.

(7) [Reserved].

(8) If any Agent or any Lender determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 3.01 by the Borrower or any Guarantor, as the case may be (including by the payment of additional amounts pursuant to this Section 3.01), it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 3.01 with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses incurred by such Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided, that the Borrower or the applicable Guarantor, as the case may be, upon the request of such Agent or such Lender, shall repay the amount paid over to the Borrower or the applicable Guarantor, as the case may be (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent or such Lender in the event such Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (8), in no event will any Agent or any Lender be required to pay any amount to the Borrower any Guarantor pursuant to this paragraph (8) the payment of which would place such Agent or such Lender in a less favorable net after-tax position than the indemnified party would have been in if the Indemnified Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Indemnified Tax had never been paid. Such Agent or such Lender, as the case may be, shall provide the Borrower with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (provided, that such Lender or such Agent may delete any information therein that such Lender or such Agent deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(9) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(10) For the avoidance of doubt, for purposes of this Section 3.01, the term “Lender” includes any Issuing Bank and any Swing Line Lender.

SECTION 3.02 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (a) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans, shall be suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Adjusted Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the
circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted Eurodollar Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Adjusted Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.03 Inability to Determine Rates. If the Required Lenders reasonably determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for determining the Adjusted Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence with respect to the Adjusted Eurodollar Rate component of the Base Rate, the utilization of the Adjusted Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans.

(1) Increased Costs Generally. If any Change in Law shall:

   (a) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or the Issuing Bank or the Swing Line Lender;

   (b) subject any Lender or the Issuing Bank or the Swing Line Lender to any Tax with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurodollar Rate Loan made by it, or change the basis of taxation of payments to such Lender, Issuing Bank or Swing Line Lender, as applicable, in respect thereof (except, in each case, for (i) Indemnified Taxes and (ii) Excluded Taxes); or
(c) impose on any Lender or the Issuing Bank or the Swing Line Lender or the London interbank market any other condition, cost or expense affecting this Agreement, any Letter of Credit, any participation in a Letter of Credit or Eurodollar Rate Loans made by such Lender or the Issuing Bank or such Swing Line Lender that is not otherwise accounted for in the definition of the Adjusted Eurodollar Rate or this section (1);

and the result of any of the foregoing shall be to increase the cost to such Lender or the Issuing Bank or such Swing Line Lender of making or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, the Issuing Bank or such other Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit, or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank (whether of principal, interest or any other amount)) then, from time to time within ten (10) days after demand by such Lender or the Issuing Bank setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender or the Issuing Bank such additional amount or amounts as will compensate such Lender or the Issuing Bank for such additional costs incurred or reduction suffered. No Lender, Issuing Bank or Swing Line Lender is entitled to seek similar amounts.

(2) **Capital Requirements.** If any Lender or the Issuing Bank reasonably determines that any Change in Law affecting such Lender or the Issuing Bank or any Lending Office of such Lender or the Issuing Bank or such Lender’s or Issuing Bank’s holding company, if any, regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender’s or Issuing Bank’s capital or on the capital of such Lender’s or Issuing Bank’s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Issuing Bank or the Loans made by or Letters of Credit issued by it to a level below that which such Lender or the Issuing Bank or such Lender’s or Issuing Bank’s holding company could have achieved but for such Change in Law (taking into consideration such Lender’s or the Issuing Bank’s policies and the policies of such Lender’s or Issuing Bank’s holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender or the Issuing Bank setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender, the Issuing Bank or such Lender’s or Issuing Bank’s holding company for any such reduction suffered.

(3) **Certificates for Reimbursement.** A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or their respective holding company, as the case may be, as specified in subsection (1) or (2) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(4) **Delay in Requests.** Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender’s or the Issuing Bank’s right to demand such compensation, provided, that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender or the Issuing Bank notifies the

-116-
Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender’s or the Issuing Bank’s intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost, liability or expense incurred by it as a result of:

(1) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(2) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(3) any assignment of a Eurodollar Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07;

including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(1) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (a) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (b) in each case, would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender in any material economic, legal or regulatory respect.

(2) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurodollar Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurodollar Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(3) shall be applicable); provided, that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(3) Conversion of Eurodollar Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender’s Eurodollar Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Rate
Loans made by other Lenders are outstanding, such Lender’s Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurodollar Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.07 Replacement of Lenders Under Certain Circumstances. If (a) any Lender requests compensation under Section 3.04 or ceases to make Eurodollar Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (b) the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, (c) any Lender is a Non-Consenting Lender, (d)(i) any Lender shall become and continue to be a Defaulting Lender and (ii) such Defaulting Lender shall fail to cure the default pursuant to Section 2.19(2) within five (5) Business Days after the Borrower’s request that it cure such default or (e) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), provided, that:

1. the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(2)(d);

2. such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit and Swing Line Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

3. such Lender being replaced pursuant to this Section 3.07 shall (a) execute and deliver an Assignment and Assumption with respect to such Lender’s Commitment and outstanding Loans and participations in Letters of Credit or Swing Line Loans, and (b) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); provided, that the failure of any such Lender to execute an Assignment and Assumption or deliver such Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such failure;

4. the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

5. in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

such assignment does not conflict with applicable Laws.

Notwithstanding anything to the contrary contained above, any Lender that acts as an Issuing Bank may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such Issuing Bank or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit and the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 10.09.

In the event that (a) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (b) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and (c) the Required Lenders, Required Revolving Lenders or Required Facility Lenders, as applicable, have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “Non-Consenting Lender.”

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Agent.

ARTICLE IV

Conditions Precedent to Borrowings

SECTION 4.01 Conditions to Initial Borrowing. The obligation of each Lender to extend credit to the Borrower and of the Issuing Bank to issue Letters of Credit hereunder on the Closing Date is subject to the satisfaction prior to (or substantially simultaneously with) the consummation of the Transactions, or due waiver in accordance with Section 11.01, of only each of the following conditions precedent:

1. The Administrative Agent’s receipt of the following, each of which shall be originals, facsimiles or copies in.pdf format unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Parties (as applicable):

   a. [reserved];

   b. executed counterparts of (i) this Agreement by the Borrower and (ii) the Guaranty by each Loan Party (other than the Borrower);
(c) executed counterparts of the Perfection Certificate, the Security Agreement and the Intellectual Property Security Agreements by each Loan Party party thereto, together with (i) the certificates, if any, representing the Pledged Equity accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank and (ii) UCC financing statements in appropriate form for filing under the UCC in the offices specified in Section I.A to the Perfection Certificate;

(d) certificates of good standing (to the extent applicable) from the secretary of state (or such other office) of the state of the jurisdiction of organization of each Loan Party; customary certificates of resolutions or other action, incumbency certificates or other certificates of Responsible Officers of each such Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date, and, in the case of the Borrower including a certificate by a Responsible Officer of the Borrower that the conditions specified in clauses (3) and (4) below have been satisfied;

(e) an opinion from (i) Latham & Watkins LLP, special counsel to the Loan Parties and (ii) LeClairRyan, special New Jersey counsel to the Loan Parties;

(f) a solvency certificate from the chief financial officer of the Borrower (after giving effect to the Transactions) substantially in the form attached hereto as Exhibit I;

(g) customary insurance certificates and, to the extent received after Borrower’s commercially reasonable efforts to obtain the same, related endorsements, with respect to all material property and liability insurance required to be maintained pursuant to Section 6.07 and naming the Collateral Agent as lender loss payee and/or additional insured, as applicable, under each such insurance policy with respect to such insurance; and

(h) copies of recent Lien and judgment searches in each jurisdiction reasonably requested by the Administrative Agent with respect to the Loan Parties;

(2) All fees and expenses required to be paid hereunder on the Closing Date, in the case of expenses and legal fees to the extent invoiced in reasonable detail at least two (2) Business Days before the Closing Date (except as otherwise reasonably agreed by the Borrower), shall have been paid in full in cash.

(3) The Lenders shall have received all outstanding documentation and other information about the Loan Parties required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act that in each case has been requested in writing by them at least five days prior to the Closing Date.

(4) The Administrative Agent shall have received a certificate signed by a Responsible Officer of the Borrower certifying as to Sections 4.02(1) and (3).

Without limiting the generality of the provisions of the last paragraph of Section 10.03, for purposes of determining compliance with the conditions specified in this Section 4.01, (x) each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each
document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the 
Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto and 
(y) transactions occurring (or to occur) on the Closing Date in accordance with, and as expressly set forth in, the funds flow memorandum 
delivered to (and approved by) the Administrative Agent shall be deemed to occur and have occurred substantially simultaneously with the 
initial Borrowing.

SECTION 4.02 Conditions to All Borrowings. Except as set forth in Section 2.16(2) with respect to Incremental Loans or with 
respect to extensions of credit made on the Restatement Effective Date, the obligation of each Lender to honor a Committed Loan Notice, of 
the Issuing Bank to issue, amend, renew or extend any Letter of Credit, and of the Swing Line Lender to make Swing Line Loans, is subject 
to the following conditions precedent:

1. The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan 
Document shall be true and correct in all material respects on and as of the date of such Borrowing or issuance, amendment, renewal 
or extension of any Letter of Credit; provided, that to the extent that such representations and warranties specifically refer to an 
earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation 
and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving 
effect to any qualification therein) in all respects on such respective dates;

2. The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof 
and, if applicable, the Issuing Bank shall have received an Issuance Notice in accordance with the requirements hereof or the Swing 
Line Lender shall have received a Swing Line Loan Request in accordance with the requirements hereof; and

3. As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, 
no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the 
extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such 
date.

Each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to another Type or a 
continuation of Eurodollar Rate Loans) and each Issuance Notice submitted by the Borrower shall be deemed to be a representation and 
Warranty that the condition specified in Sections 4.02(1) and (3) has been satisfied on and as of the date of the applicable Borrowing or 
issuance, amendment, renewal or extension of a Letter of Credit.

ARTICLE V

Representations and Warranties

To induce the Lenders to make any Loan and the Issuing Bank to issue any Letter of Credit on or after the Closing Date, the Borrower 
represents and warrants to the Lenders, the Issuing Bank, the Administrative Agent and the Collateral Agent on and as of the Restatement 
Effective Date, and on and as of each other date as required by Section 2.16 or 4.02, as applicable, each of the following.

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its respective 
Restricted Subsidiaries that is a Material Subsidiary:

1. is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its 
incorporation or organization (to the extent such concept exists in such jurisdiction),

2. has all corporate or other organizational power and authority to (a) own its assets and carry on its business as currently 
conducted and (b) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it 
is a party,

3. is duly qualified and in good standing (to the extent such concept exists in such jurisdiction) under the Laws of each 
jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification,

4. is in compliance with all applicable Laws, writs, injunctions and orders;

5. has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently 
conducted; and

6. except in each case referred to in clause (3), (4) or (5), to the extent that failure to do so would not reasonably be 
expected to have, individually or in the aggregate, a Material Adverse Effect.
SECTION 5.02   Authorization: No Contravention.

(1) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(2) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party nor the consummation of the Transactions or the Argentum Transactions will:

   (a) contravene the terms of any of its Organization Documents;

   (b) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under (i) any Contractual Obligation to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Restricted Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject; or

   (c) violate any applicable Law;
except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (b) and (c), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.03  **Governmental Authorization.** No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for:
(1) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;

(2) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement or the Collateral Documents); and

(3) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

SECTION 5.05 Financial Statements; No Material Adverse Effect.

(1) (a) The Annual Financial Statements and the Quarterly Financial Statements fairly present in all material respects the combined financial condition of the Company and its Subsidiaries (or the Borrower and its Subsidiaries, as applicable) as of the dates thereof and their results of operations for the period covered thereby in material accordance with GAAP consistently applied throughout the periods covered thereby, (i) except as otherwise expressly noted therein and (ii) subject, in the case of the Quarterly Financial Statement, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) As of the Closing Date, the unaudited pro forma consolidated balance sheet and related unaudited pro forma consolidated statement of income of the Borrower as of and for the twelve-month period ending on September 30, 2014 and delivered in connection with the Original Credit Agreement, prepared after giving effect to the Transactions (as defined in the Original Credit Agreement) as if the Transactions (as defined in the Original Credit Agreement) had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income) (the “Pro Forma Financial Statements”), copies of which have heretofore been furnished to the Administrative Agent, have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated financial position of the Borrower and its Subsidiaries as of September 30, 2014 and their estimated results of operations for the period covered thereby.

(2) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(3) As of the Closing Date, the forecasts of consolidated balance sheets, income statements and cash flow statements of the Borrower and its Subsidiaries delivered in connection with the Original Credit Agreement for each fiscal year ending after the Closing Date until December 31, 2019, copies of which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein which gave effect to the
Transactions (as defined in the Original Credit Agreement) and not to any transactions that occurred after September 30, 2014 (including the issuance of the Convertible Notes, the refinancing of the Original Credit Agreement or the Transactions (as defined herein)), which assumptions were believed to be reasonable at the time made, it being understood that (a) no forecasts are to be viewed as facts, (b) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, (c) no assurance can be given that any particular forecasts will be realized and (d) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.07 Labor Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (1) there are no strikes or other labor disputes against any of the Borrower or its Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (2) hours worked by and payment made based on hours worked to employees of each of the Borrower or its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each of its respective Restricted Subsidiaries has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.09 Environmental Matters.

1. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) the Borrower, each Guarantor and each of their respective Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (b) neither the Borrower, any Guarantor nor any of their respective Restricted Subsidiaries has received notice of or is subject to any pending, or to the knowledge of the Borrower, threatened Environmental Claim or any other Environmental Liability or is aware of any basis for any Environmental Liability.

2. Neither the Borrower, any Guarantor nor any of their respective Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in a manner that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and its Restricted Subsidiaries have timely filed all Tax returns and reports required to be filed, and have timely paid all Taxes (including in its capacity as withholding agent) levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP.
SECTION 5.11  ERISA Compliance.

(1) Except as set forth in Schedule 5.11(1) or as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws.

(2) (a) No ERISA Event has occurred or is reasonably expected to occur, (b) neither the Borrower nor any Guarantor nor any of their respective ERISA Affiliates has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. or 4243 of ERISA with respect to a Multiemployer Plan; (c) neither the Borrower nor any Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA; and (d) neither the Borrower nor any Guarantor nor any ERISA Affiliate has been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is reasonably expected to be in reorganization, insolvent or endangered or critical status, except, with respect to each of the foregoing clauses of this Section 5.11(2), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.12  Subsidiaries. As of the Restatement Effective Date, all of the outstanding Equity Interests in the Borrower and its Restricted Subsidiaries have been validly issued and are fully paid and (if applicable) nonassessable, and all Equity Interests owned by the Borrower or any Guarantor in any of their respective Restricted Subsidiaries are owned free and clear of all Liens of any person except (1) those Liens created under the Collateral Documents and (2) any nonconsensual Lien that is permitted under Section 7.01. As of the Restatement Effective Date, Schedule 5.12 (a) sets forth the name and jurisdiction of each Subsidiary, (b) sets forth the ownership interest of the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (c) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Restatement Effective Date pursuant to the Collateral and Guarantee Requirement.

SECTION 5.13  Margin Regulations; Investment Company Act.

(1) As of the Closing Date and as of the Restatement Effective Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings or issuance of, or drawings under, any Letter of Credit will be used for any purpose that violates Regulation U.

(2) Neither the Borrower nor any Guarantor is an “investment company” under the Investment Company Act of 1940.

SECTION 5.14  Disclosure. None of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Guarantor to any Agent or any Lender (x) on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document or (y) on or prior to the Restatement Effective Date in connection with the Argentum Transactions, when taken as a
whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information was originally delivered and prior to the Closing Date (or on or prior to the Restatement Effective Date, with respect to information delivered in connection with the Argentum Transactions); it being understood that for purposes of this Section 5.14, with respect to projections, pro forma financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature, the Borrower only represents and warrants that such information has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made, it being understood that (a) no forecasts are to be viewed as facts, (b) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, (c) no assurance can be given that any particular forecasts will be realized and (d) actual results may differ and such differences may be material.

SECTION 5.15 Intellectual Property; Licenses, Etc. The Borrower and the Restricted Subsidiaries own or have a valid right to use, all the Intellectual Property necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Borrower or any of its Restricted Subsidiaries as currently conducted does not infringe upon, misuse, misappropriate or violate any Intellectual Property rights held by any Person except for such infringements, misuses, misappropriations or violations individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any Intellectual Property owned by the Borrower or any of its Restricted Subsidiaries is pending or, to the knowledge of the Borrower, threatened against the Borrower or any Restricted Subsidiary, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent. On the Restatement Effective Date after giving effect to the Argentum Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 USA PATRIOT Act, FCPA and OFAC.

(1) Each of the Borrower and its Subsidiaries is in compliance with (a) the Trading with the Enemy Act, 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, (b) the USA PATRIOT Act and (c) all laws, rules, and regulations of any jurisdiction applicable to the Borrower and its Subsidiaries from time to time concerning or relating to bribery or corruption (including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act) (collectively, “Anti-Corruption Laws”). No part of the proceeds of the Loans will be used, directly or, to Borrower’s knowledge, indirectly, for any payments to any governmental 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 Anti-Corruption Laws.

(2) None of the Borrower or any Restricted Subsidiary nor, to the knowledge of the Borrower, any director, officer, agent, employee or Affiliate of the Borrower or any Restricted Subsidiary, (i) is a person on the list of “Specially Designated Nationals and Blocked Persons” or (ii) is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S.
Treasury Department ("OFAC"), the U.S. State Department, the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority (collectively, “Sanctions Authority”). The Borrower (i) will not directly or, to its knowledge (after due inquiry), indirectly use the proceeds of the Loans or Letters of Credit or otherwise knowingly make available such proceeds to any person, for the purpose of financing the activities of any person, or in any territory or country, currently subject to any sanctions administered by a Sanctions Authority and (ii) along with its Subsidiaries, is in compliance with all Sanctions Authority.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents (including the delivery to Collateral Agent of any Pledged Debt and any Pledged Equity required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority perfected Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of the Borrower and the applicable Guarantors, respectively, in the Collateral described therein.

SECTION 5.19 Use of Proceeds. The Borrower will use the proceeds of the Loans, and may request the issuance of Letters of Credit, solely for working capital and other general corporate purposes, including transactions that are not prohibited by the terms of this Agreement (including Permitted Investments and Permitted Acquisitions) and to finance the Transactions; provided that the Borrower will use the proceeds of the Term A-1 Loans solely to finance a portion of the Argentum Acquisitions and to pay fees and expenses in connection with the Argentum Acquisitions and the Initial Term Loans.

SECTION 5.20 Health Care Laws and Permits.

(1) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each of the Borrower and its Subsidiaries are in compliance with all applicable Health Care Laws.

(2) Each of the Borrower and its subsidiaries holds and is operating in material compliance with all Permits, except where the failure to hold or operate in material compliance with such Permits would not result in a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries has received any written notice of proceedings relating to, and to the knowledge of Borrower there are no facts or circumstances that could reasonably be expected to lead to, the revocation, suspension, termination or modification of any such certificate Permit, except where such revocation, suspension, termination or modification of any such Permit has not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(3) The Borrower and its Subsidiaries have not received any written notice or, to the knowledge of Borrower, other communication from any Governmental Authority, regarding any actual or alleged violation of, any applicable Health Care Law by Borrower or any of its Subsidiaries, except where such actual or alleged violation has not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(4) No Included Product is the subject of, or subject to (as applicable), any recall, market withdrawal or seizure, or any warning letter or other written communication from any Governmental Authority to the Borrower or any of its Subsidiaries requiring such action or asserting that an Included Product fails to comply with applicable law, except where such action, letter or communication has not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Borrower and its Subsidiaries have not received any written notice or written correspondence.
from any Governmental Authority requiring the termination or suspension of, or imposing a clinical hold on any such studies, tests or
preclinical or clinical trials conducted by or on behalf of the Borrower and its Subsidiaries, which termination, suspension or clinical hold
would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Since March 9, 2013 neither Borrower nor
any Subsidiary has received written notification from any Governmental Authority that an Included Product fails to comply with applicable
Law, which failure could reasonably be expected to result in sanctions or adversely affect the Permits of the Borrower and its Subsidiaries’
facilities, except where such sanctions or adverse effect on the Permits have not had, and would not reasonably be expected to have,
individually or in the aggregate, a Material Adverse Effect.

ARTICLE VI

Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower will, and will (except in the case of the covenants set
forth in Sections 6.01, 6.02 and 6.03) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent (for prompt further distribution by the Administrative
Agent to each Lender) each of the following:

(1) Audited Financial Statements. As soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, stockholders’ equity and cash flows for such fiscal year, together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of KPMG LLP or any other independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion will be prepared in accordance with generally accepted auditing standards and will not be subject to any explanatory statement as to the Borrower’s ability to continue as a “going concern” or like qualification or exception (other than with respect to (a) an upcoming maturity date within the next twelve months under the Facilities or (b) any potential inability to satisfy the financial covenant set forth in Section 8.01 on a future date or in a future period) or any qualification or exception as to the scope of such audit;

(2) Quarterly Financial Statements. As soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ending June 30, 2015), a condensed consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related (a) condensed consolidated statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (b) condensed consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (a) and (b), in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject to year-end adjustments and the absence of footnotes;
(3) **Budgets.** Within seventy-five (75) days after the end of each fiscal year of the Borrower, a consolidated budget of the Borrower and its Restricted Subsidiaries for the following fiscal year on a quarterly basis, in form and substance consistent with the internal budget customarily prepared by management of the Borrower for its internal use and setting forth the material underlying assumptions upon which such consolidated budget was prepared (including any projected consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the following fiscal year and the related consolidated statements of projected operations or income and projected cash flow of the Borrower and its Restricted Subsidiaries, in each case, to the extent prepared by management of the Borrower and included in such consolidated budget, which projected financial statements shall be prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such projected financial statements);

(4) **Management’s Discussion and Analysis.** Simultaneously with the delivery of the financial statements referred to in Sections 6.01(1) and 6.01(2) above, a management’s discussion and analysis describing results of operations of the Borrower in the form customarily prepared by management of the Borrower; and

(5) **Unrestricted Subsidiaries; Consolidating Financial Statements.** Simultaneously with the delivery of the financial statements referred to in Sections 6.01(1) and 6.01(2) above, consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in Section 6.01(1) and Section 6.01(2) may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (i) the applicable financial statements of any direct or indirect parent of the Borrower that holds all of the Equity Interests of the Borrower or (ii) the Borrower’s or such entity’s form 10-K or 10-Q, as applicable, filed with the SEC; provided, that with respect to each of the foregoing clauses (i) and (ii),

(a) to the extent such information relates to a parent of the Borrower, such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to the Borrower (or such parent), on the one hand, and the information relating to the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand; and

(b) to the extent such information is in lieu of information required to be provided under Section 6.01(1), such materials are accompanied by a report and opinion of KPMG LLP or any other independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion will be prepared in accordance with generally accepted auditing standards and will not be subject to any explanatory statement as to the Borrower’s ability to continue as a “going concern” or like qualification or exception (other than with respect to (i) an upcoming maturity date within the next twelve months under the Facilities and (ii) any potential inability to satisfy the financial covenant set forth in Section 8.01 on a future date or in a future period) or any qualification or exception as to the scope of such audit.

Financial statements required to be delivered pursuant to Section 6.01(1) or Section 6.01(2) will not be required to contain purchase accounting adjustments to the extent it is not practicable to include such adjustments in such financial statements.

**SECTION 6.02 Certificates; Other Information.** Deliver to the Administrative Agent (for prompt further distribution by the Administrative Agent to each Lender) each of the following:

-129-
(1) **Compliance Certificates.** No later than five (5) days after the delivery of the financial statements referred to in Sections 6.01(1) and 6.01(2), a duly completed Compliance Certificate; *provided*, that if such Compliance Certificate demonstrates a Financial Covenant Event of Default, the Borrower may deliver, prior to or together with such Compliance Certificate, a notice of an intent to cure (a “**Notice of Intent to Cure**”) pursuant to Section 8.02 to the extent permitted thereunder;

(2) **Collateral and Subsidiary Information.** Together with the delivery of a Compliance Certificate with respect to the financial statements referred to in Section 6.01(1),

(a) a report setting forth the information required by Sections 3.03(c) and 4.02(f) of the Security Agreement (or confirming that there has been no change in such information since the later of Closing Date and the date of the last such report); and

(b) a list of each Subsidiary of the Borrower that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list.

(3) **SEC Filings, etc.** Promptly after the same are publicly available, copies of all annual, regular, periodic and special reports, proxy statements and registration statements that the Borrower or any Restricted Subsidiary files with the SEC, with any Governmental Authority that may be substituted therefor or with any national securities exchange (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in each case, to the extent not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; and

(4) **Other Information.** Promptly, such additional information regarding the business, legal, financial or corporate affairs of any Loan Party or any Material Subsidiary that is a Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request.

Documents required to be delivered pursuant to Section 6.01 or this Section 6.02 may be delivered electronically and if so delivered, will be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto, on the Borrower’s website on the Internet at the website addresses listed on Schedule 11.02, or (ii) on which such documents are posted on the Borrower’s behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); *provided*, that: (A) upon written request by the Administrative Agent, the Borrower will deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (B) the Borrower will notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender will be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.
The Borrower hereby acknowledges that (a) the Administrative Agent, the Lead Bookrunners or the Lead Arrangers will make available to the Lenders materials or information provided by or on behalf of the Borrower hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on IntraLinks or another similar electronic system (the “Platform”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders will be clearly and conspicuously marked “PUBLIC” which, at a minimum, will mean that the word “PUBLIC” will appear prominently on the first page thereof; (ii) by marking Borrower Materials “PUBLIC,” the Borrower will be deemed to have authorized the Administrative Agent, the Lead Bookrunners, the Lead Arrangers and the Lenders to treat such Borrower Materials as containing only Public-Side Information (provided, however, that to the extent such Borrower Materials constitute Information, they will be treated as set forth in Section 11.08); (iii) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public-Side Information”; and (iv) the Administrative Agent, the Lead Bookrunners and the Lead Arrangers will be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public-Side Information.”

Nothing in this Agreement or in any other Loan Document requires the Borrower to disclose information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Laws, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements on the Borrower or one of its Subsidiaries not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

SECTION 6.03 Notice of Material Events. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent of:

1. Defaults and Events of Default. The occurrence of any Default or Event of Default; and

2. Material Events. To the extent any of the following has resulted, or would reasonably be expected to result, in a Material Adverse Effect:

   a. any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority;

   b. the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, including any Environmental Claims or in respect of Health Care Laws or Intellectual Property, or

   c. the occurrence of any ERISA Event.

Each notice pursuant to this Section 6.03 will be accompanied by a written statement of a Responsible Officer of the Borrower (i) that such notice is being delivered pursuant to Section 6.03(1) or Section 6.03(2) (as applicable), and (ii) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

SECTION 6.04 Payment of Material Taxes. Timely pay, discharge or otherwise satisfy, as the same become due and payable, all of its obligations and liabilities in respect of Taxes imposed upon it.
or upon its income or profits or in respect of its property, except, in each case, to the extent (1) any such Tax is being contested in good faith and by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP or (2) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

**SECTION 6.05 Maintenance of Existence, Etc.**

(1) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization; and

(2) take all reasonable action to obtain, preserve, renew and keep in full force and effect those of its rights (including with respect to Intellectual Property), licenses, permits, privileges, and franchises, that are material to the conduct of its business;

in each case, except (a) to the extent (other than with respect to the preservation of the existence of the Borrower, except in a transaction permitted under Section 7.04 or Section 7.05) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (b) pursuant to any merger, dissolution, liquidation, consolidation, or Disposition permitted by Article VII.

**SECTION 6.06 Maintenance of Material Properties.** Maintain, preserve and protect all of its material tangible property, including the Mortgaged Properties, and equipment used in the operation of its business in good working order, repair and condition, except (1) for ordinary wear and tear, (2) casualty or condemnation and (3) if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 6.07 Maintenance of Insurance.**

(1) Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons.

(2) Furnish to the Lenders, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance carried by the Borrower and its Restricted Subsidiaries.

(3) Each such policy of insurance will, as is appropriate and customary, (a) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear or (b) in the case of each property and casualty insurance policy, contain a lender loss payable/mortgagee clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties as the lender loss payee/mortgagee thereunder; provided, that to the extent that the requirements of this Section 6.07(3) are not satisfied on the Closing Date after the Borrower’s commercially reasonable efforts to obtain the same, the Borrower may satisfy such requirements within ninety (90) days of the Closing Date (as extended by the Administrative Agent in its reasonable discretion).
If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the Flood Insurance Laws, then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

SECTION 6.08 Compliance with Material Laws. Comply in all material respects with its Organization Documents and the requirements of all Laws (including Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain books of record and account, in which entries that are true and correct in all material respects will be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization and that such maintenance will not constitute a breach of the representations, warranties or covenants hereunder).

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent, the Collateral Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial, and operating records, to make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants’ customary policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, that unless an Event of Default is continuing, (1) only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and (2) the Administrative Agent will not exercise such rights more often than two (2) times during any calendar year and only one (1) such time will be at the Borrower’s expense; provided, further, that when an Event of Default is continuing, the Administrative Agent, the Collateral Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders will give the Borrower the opportunity to participate in any discussions with the Borrower’s independent public accountants. None of the Borrower or any of the Restricted Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter, or provide information, that (a) constitutes non-financial trade secrets or non-financial proprietary information, (b) in respect of which disclosure is prohibited by Law, (c) is subject to attorney-client or similar privilege or constitutes attorney work product or (d) the disclosure of which is restricted by binding agreements not entered into primarily for purposes of qualifying for the exclusion in this clause (d).

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower’s expense, subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document, take all action necessary or reasonably requested by the Administrative Agent or the Collateral Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:
(1)  (i) upon the formation or acquisition of any new direct or indirect wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan Party, the designation in accordance with Section 6.13 of any existing direct or indirect wholly owned Material Domestic Subsidiary as a Restricted Subsidiary or any Person becoming a wholly owned Material Domestic Subsidiary (that is a Restricted Subsidiary) or ceasing to be an Excluded Subsidiary, (ii) upon the acquisition of any material assets by the Borrower or any Guarantor and (iii) with respect to any Subsidiary at the time it becomes a Loan Party, for any material assets held by such Subsidiary (in each case, other than assets constituting Collateral under a Collateral Document that becomes subject to the Lien created by such Collateral Document upon acquisition thereof (without limitation of the obligations to perfect such Lien)):

(a) within sixty (60) days (or such greater number of days specified below) after such formation, acquisition or designation or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion, cause such Material Domestic Subsidiary to duly execute and deliver to the Administrative Agent the Guaranty (or a joinder thereto in the form attached thereto or other form reasonably acceptable to the Administrative Agent), a supplement to the Perfection Certificate and other documentation the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Guaranty and the Collateral Documents and:

(i) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)) after such formation, acquisition or designation, cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent Security Agreement Supplements, a counterpart signature page to the Intercompany Subordination Agreement, Intellectual Property Security Agreements and other security agreements and documents, as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (it being agreed that a form and substance consistent with the Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date, shall be satisfactory), in each case granting and perfecting Liens required by the Collateral and Guarantee Requirement;

(ii) (A) cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement (and the parent of each such Material Domestic Subsidiary that is the Borrower or a Guarantor) to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and instruments evidencing Indebtedness held by such Material Domestic Subsidiary and required to be pledged pursuant to the Collateral Documents, endorsed in blank to the Collateral Agent and (B) ensure that all Indebtedness owing from the Borrower or any of the wholly owned Restricted Subsidiaries to any Loan Party (or any Person required to become a Loan Party hereunder) will be subject to the Intercompany Subordination Agreement; and

(iii) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after such formation, acquisition or
designation, take and cause the applicable Material Domestic Subsidiary and each direct or indirect parent of such applicable Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to take customary, or legally required, actions (including the filing of Uniform Commercial Code financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid first-priority perfected Liens (subject to Liens permitted under Section 7.01) required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(b) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after the request therefor by the Administrative Agent (or such longer period as the Administrative Agent may agree in its reasonable discretion), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(1) as the Administrative Agent may reasonably request;

provided, that actions relating to Liens on real property are governed by Section 6.11(2) and not this Section 6.11(1).

(2) Material Real Property.

(a) Notice.

(i) Within sixty (60) days after the formation, acquisition or designation of a Material Domestic Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement (or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion), the Borrower will, or will cause such Material Domestic Subsidiary to, furnish to the Collateral Agent a description of any Material Real Property owned by such Material Domestic Subsidiary in reasonable detail.

(ii) Within sixty (60) days after the acquisition of any Material Real Property by a Loan Party after the Closing Date (or such longer period as the Administrative Agent may agree in its reasonable discretion), the Borrower will furnish to the Collateral Agent a description of such Material Real Property in reasonable detail.

(b) Mortgages, etc. The Borrower will, or will cause the applicable Loan Party to, provide the Collateral Agent with a Mortgage with respect to Material Real Property the subject of a notice delivered pursuant to Section 6.11(2)(a), within ninety (90) days of the formation, acquisition or designation of such Material Real Property (or such longer period as the Administrative Agent may agree in its sole discretion), together with:

(i) evidence that counterparts of such Mortgage have been duly executed, acknowledged and delivered and are in a form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on such Material Real

-135-
Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or are otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(ii) fully paid Mortgage Policies or signed commitments in respect thereof together with such affidavits, certificates, and instruments of indemnification (including a so-called “gap” indemnification) as shall be required to induce the title insurance company to issue the Mortgage Policies and endorsements contemplated above and evidence of payment of title insurance premiums and expenses and all recording, mortgage, transfer and stamp taxes and fees payable in connection with recording the Mortgage;

(iii) customary opinions of local counsel for such Loan Party in the state in which such Material Real Property is located, with respect to the enforceability and perfection of the Mortgage and any related fixture filings and, where the applicable Loan Party granting the Mortgage on said Mortgaged Property is organized, an opinion regarding the due authorization, execution and delivery of such Mortgage, and in each case, such other matters as may be in form and substance reasonably satisfactory to the Administrative Agent;

(iv) an ALTA survey or existing survey together with a no change affidavit of such Mortgaged Property, sufficient for the title insurance company to remove the standard survey exception and issue related endorsements and otherwise reasonably satisfactory to the Administrative Agent (if reasonably requested by the Administrative Agent); and

(v) a completed “Life-of-Loan” Federal Emergency Management Agency standard flood hazard determination with respect to each Mortgaged Property, and if any Mortgaged Property is located in an area determined by the Federal Emergency Management Agency (or any successor agency) to be located in special flood hazard area, a duly executed notice about special flood hazard area status and flood disaster assistance and evidence of such flood insurance.

SECTION 6.12 Further Assurances. Subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document, and in each case at the expense of the Borrower, promptly upon reasonable request by the Administrative Agent or the Collateral Agent or as may be required by applicable Laws (1) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (2) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents and to satisfy the Collateral and Guarantee Requirement.

SECTION 6.13 Designation of Subsidiaries. The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; provided that:

(1) immediately before and after such designation (or re-designation), no Specified Event of Default will be continuing;
(2) other than for purposes of designating a Restricted Subsidiary as an Unrestricted Subsidiary that is a Securitization Subsidiary in connection with the establishment of a Qualified Securitization Financing, immediately after giving effect to such designation (or re-designation), the Total Net Leverage Ratio for the Test Period immediately preceding such designation (or re-designation) for which financial statements have been delivered pursuant to Section 6.01 is less than or equal to 4.75:1.00 (calculated on a Pro Forma Basis) and, as a condition precedent to the effectiveness of any such designation (or re-designation), the Borrower will deliver to the Administrative Agent a certificate setting forth in reasonable detail the calculations demonstrating satisfaction of such test;

(3) no Subsidiary may be designated as an Unrestricted Subsidiary if such Subsidiary or any of its Subsidiaries owns any Equity Interests of, or owns or holds any Lien on any property of, the Borrower or any other Restricted Subsidiary of the Borrower that is not a Subsidiary of the Subsidiary to be so designated;

(4) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a “Restricted Subsidiary” for the purpose of any Junior Financing or any other Indebtedness of any Loan Party; and

(5) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary is permitted by Section 7.02.

The designation of any Subsidiary as an Unrestricted Subsidiary will constitute an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value (as determined by the Borrower in good faith) of the Borrower’s or its Subsidiary’s (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary will constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value (as determined by the Borrower in good faith) of the Borrower’s or its Subsidiary’s (as applicable) Investment in such Subsidiary.

SECTION 6.14 Use of Proceeds. Use the proceeds of the Loans in the manner set forth in Section 5.19.

SECTION 6.15 Maintenance of Ratings. Use commercially reasonable efforts to maintain a public corporate credit rating from S&P or a public corporate family rating from Moody’s (but not a specific rating), in each case in respect of the Borrower.

ARTICLE VII

Negative Covenants

So long as the Termination Conditions are not satisfied, the Borrower will not, nor will the Borrower permit any Restricted Subsidiary to:

SECTION 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(1) Liens created pursuant to any Loan Document;

(2) Liens existing on the Restatement Effective Date and set forth on Schedule 7.01:
(3) Liens for taxes, assessments or governmental charges that are not overdue for a period of more than thirty (30) days or that are being contested in good faith and by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP;

(4) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens (other than in respect of Indebtedness) in favor of landlords, so long as, in each case, such Liens arise in the ordinary course of business that secure amounts not overdue for a period of more than thirty (30) days or, if more than thirty (30) days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(5) (a) pledges or deposits in the ordinary course of business (i) in connection with workers’ compensation, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) or (ii) securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Restricted Subsidiaries;

(b) Liens on cash securing obligations to insurance companies with respect to insurable liabilities incurred in the ordinary course of business;

(c) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect to such insurance policies;

(6) deposits to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(7) easements, rights-of-way, restrictions, encroachments, protrusions and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the Mortgage Policies accepted by the Collateral Agent in accordance with this Agreement;

(8) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(9) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries, taken as a whole;

(10) deposits of cash with the owner or lessor of premises leased by the Borrower or any of its Subsidiaries in the ordinary course of business of the Borrower and such Subsidiary to secure the performance of the Borrower’s or such Subsidiary’s obligations under the terms of the lease for such premises;
leases, licenses, subleases or sublicenses granted to others in the ordinary course of business (or other agreement under which the Borrower or any Restricted Subsidiary has granted rights to end users to access and use the Borrower’s or any Restricted Subsidiary’s products, technologies or services) which do not (a) interfere in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole, or (b) secure any Indebtedness;

any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor’s, sublessor’s, licensor’s or sublicensor’s interest under leases (other than Capitalized Leases) or licenses entered into by the Borrower or any of the Restricted Subsidiaries as lessee or licensee in the ordinary course of business;

Liens arising from judgments or orders for the payment of money not constituting an Event of Default under Section 9.01(7);

Liens (a) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business and (b) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person’s obligations in respect of bankers’ acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business;

Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

Liens (a) of a collection bank arising under Section 4-208 or 4-210 of the Uniform Commercial Code on the items in the course of collection, (b) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and not for speculative purposes and (c) in favor of a banking or other financial institution arising as a matter of law encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry;

Liens that are customary contractual rights of setoff (a) relating to the establishment of depository relations with banks or other deposit-taking financial institutions in the ordinary course and not given in connection with the issuance of Indebtedness, (b) relating to pooled deposit or sweep accounts of the Borrower or any of the Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any of the Restricted Subsidiaries or (c) relating to purchase orders and other agreements entered into with customers of the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

Liens imposed by law or incurred pursuant to customary reservations or retentions of title (including contractual Liens in favor of sellers and suppliers of goods) incurred in the ordinary course of business for sums not constituting borrowed money that are not overdue
for a period of more than thirty (30) days or that are being contested in good faith by appropriated proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);

(20) Liens securing obligations in respect of Indebtedness permitted under Section 7.03(7); provided, that (a) such Liens attach concurrently with or within two hundred and seventy (270) days after completion of the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens, (b) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits and (c) such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to, or acquired, constructed, repaired, replaced or improved with the proceeds of such Indebtedness; provided, that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(21) Liens (a) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02(9), 7.02(22), 7.02(23) or 7.02(24) to be applied against the purchase price for such Investment or (b) consisting of an agreement to Dispose of any property in a Disposition, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of creation of such Lien;

(22) Liens existing on property at the time of (and not in contemplation of) its acquisition or existing on the property of any Person at the time such Person becomes (and not in contemplation of such Person becoming) a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 6.13), in each case after the Closing Date; provided, that (a) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property of such acquired Restricted Subsidiary) and (b) the Indebtedness secured thereby is permitted under Section 7.03(7) or (9);

(23) Liens solely on any cash earnest money deposits made by the Borrower or any of the Restricted Subsidiaries in connection with a letter of intent or purchase agreement;

(24) Liens in favor of the Borrower or a Loan Party securing Indebtedness permitted under Section 7.03(6);

(25) Liens under the Loan Documents securing Cash Management Obligations permitted under Section 7.03(14);

(26) Liens under the Loan Documents securing any Secured Hedge Agreement;

(27) Liens on assets of Non-Loan Parties securing Indebtedness of such Non-Loan Parties permitted by Section 7.03;

(28) Liens on the Securitization Assets arising in connection with a Qualified Securitization Financing;

(29) Liens in respect of the cash collateralization of letters of credit;

-140-
(30) the modification, replacement, renewal or extension of any Lien permitted by clauses (2), (20) and (22) of this
Section 7.01; provided, that (a) the Lien does not extend to any additional property other than (i) after-acquired property that is
affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 7.03(7) and
(ii) proceeds and products thereof and (b) the renewal, extension or refinancing of the obligations secured or benefited by such Liens
is permitted by Section 7.03;

(31) Liens on the Collateral securing obligations in respect of Permitted Pari Passu Secured Refinancing Debt or Permitted
Junior Secured Refinancing Debt and any Permitted Refinancing of any of the foregoing; provided, that (a) any such Liens securing
Permitted Pari Passu Secured Refinancing Debt will be subject to an Equal Priority Intercreditor Agreement and Junior Lien
Intercreditor Agreement, if any and (b) any such Liens securing Permitted Junior Secured Refinancing Debt will be subject to a Junior
Lien Intercreditor Agreement;

(32) Liens on Collateral securing Indebtedness, including Incremental Equivalent Debt; provided, that (a) after giving Pro
Forma Effect to the incurrence of such Indebtedness, the Senior Secured Net Leverage Ratio (calculated excluding the cash proceeds
of such Indebtedness) measured as of the date of initial attachment of such lien will be no greater than 2.50 to 1.00 and (b) such Liens
are in each case subject to an Equal Priority Intercreditor Agreement and/or Junior Lien Intercreditor Agreement, as applicable; and

(33) Liens securing Indebtedness or other obligations in an aggregate principal amount as of the date of initial attachment
of such Lien not to exceed the greater of (a) $35,000,000 and (b) 10% of TTM Consolidated Adjusted EBITDA on a Pro Forma Basis
as of the applicable date of determination, in each case determined as of the date of initial attachment of such Lien.

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria
of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or
reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant;
provided, that all Liens created pursuant to the Loan Documents will be deemed to have been incurred on the Closing Date in reliance on the
exception in clause (1) above and will not be permitted to be reclassified pursuant to this paragraph.

SECTION 7.02 Investments. Make or hold any Investments, except:

(1) Investments held by the Borrower or any of the Restricted Subsidiaries in assets that are Cash Equivalents or were Cash
Equivalents when made;

(2) loans or advances to officers, directors and employees of the Borrower or any of the Restricted Subsidiaries,

(a) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business
purposes,

(b) in connection with such Person’s purchase of Equity Interests of the Borrower; provided, that to the extent
such loans or advances are made in cash, such cash is used to acquire such Equity Interests and directly or indirectly
contributed to the Borrower, and
(c) for any other purpose; provided, that the aggregate principal amount of such loans or advances at any time outstanding under clauses (b) and (c) shall not exceed $10,000,000;

(3) Investments

(a) by a Loan Party in a Loan Party,

(b) by a Non-Loan Party in a Non-Loan Party that is a Restricted Subsidiary,

(c) by a Non-Loan Party in a Loan Party, and

(d) by a Loan Party in a Non-Loan Party that is a Restricted Subsidiary; provided, that (i) any such Investments made pursuant to this clause (d) in the form of intercompany loans shall be subject to the Intercompany Subordination Agreement, and (ii) the aggregate amount of Investments made pursuant to this clause (d) shall not exceed at any time outstanding the sum of (A) the greater of (1) $50,000,000 and (2) 10% of TTM Consolidated Adjusted EBITDA on a Pro Forma Basis as of the applicable date of determination and (B) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Available Amount at such time;

(4) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from account debtors and other creditors or suppliers in the ordinary course of business;

(5) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions or Restricted Payments, permitted under Sections 7.01, 7.03 (other than Section 7.03(5)(b) and 7.03(6)), 7.04 (other than Section 7.04(3)(b)), 7.05 (other than Section 7.05(4)(b) or 7.05(5)) and 7.06 (other than Section 7.06(4));

(6) Investments existing on the Restatement Effective Date or made pursuant to legally binding written contracts in existence on the Restatement Effective Date, in each case, set forth on Schedule 7.02 and any modification, replacement, renewal, reinvestment or extension of any of the foregoing; provided, that the amount of any Investment permitted pursuant to this Section 7.02(6) is not increased from the amount of such Investment on the Restatement Effective Date except pursuant to the terms of such Investment as of the Restatement Effective Date or as otherwise permitted by another clause of this Section 7.02;

(7) Investments in Hedge Agreements;

(8) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions permitted by Section 7.05;

(9) Investments made to effect the Transactions;

(10) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practice;

(11) Investments
(a) received in connection with the bankruptcy, workout, recapitalization or reorganization of, or in settlement of delinquent obligations of, or other disputes with, the issuer of such Investment or an Affiliate thereof,

(b) arising in the ordinary course of business upon the foreclosure with respect to any secured Investment,

(c) in satisfaction of judgments against other Persons, and

(d) as a result of the settlement, compromise or resolutions of litigation, arbitration or other disputes with Persons who are not Affiliates;

(12) Investments entered into in connection with deferred compensation arrangements;

(13) advances of payroll payments to employees in the ordinary course of business;

(14) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of the Borrower or the net proceeds from the issuance thereof;

(15) Investments held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged into or consolidated with the Borrower or a Restricted Subsidiary to the extent that, in each case, such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(16) Guarantees by the Borrower or any of the Restricted Subsidiaries of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business (including in connection with Permitted Acquisitions);

(17) (a) Investments in a Securitization Subsidiary or any Investment by a Securitization Subsidiary in any other Person in connection with a Qualified Securitization Financing; provided, however, that any such Investment in a Securitization Subsidiary is in the form of a contribution of additional Securitization Assets or as equity, and (b) distributions or payments of Securitization Fees and purchases of Securitization Assets pursuant to a Securitization Repurchase Obligation in connection with a Qualified Securitization Financing;

(18) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with proceeds received by such Restricted Subsidiary from an Investment in such Restricted Subsidiary made pursuant to Section 7.02(3)(b), 7.02(3)(d) or 7.02(24);

(19) Investments consisting of purchases and acquisitions of inventory, supplies, material, services or equipment made in the ordinary course of business;

(20) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contacts and loans or advances made to distributors in the ordinary course of business;

(21) Investments
(a) made (i) in furtherance of collaboration, development, promotion, marketing, supply, research or similar arrangements with respect to pharmaceutical or other therapeutic products, diagnostic products or medical device businesses products, including payments for shared development costs, reimbursements for product development or for patent, regulatory, manufacturing or commercialization expenses, or other payments or Investments paid to a Person in the pharmaceutical industry with a view toward developing the Borrower’s business in the ordinary course of business and in a manner consistent with standard business practices and (ii) in connection with the Tolmar Agreement; provided, that such loans, advances and/or Investments made pursuant to this clause (ii) shall not exceed an aggregate principal amount of $15,000,000 at any one time outstanding; and

(b) constituting (i) any customary upfront milestone, marketing, revenue sharing, royalty, profit sharing or other funding payment in the ordinary course of business to another Person in connection with obtaining a right to receive royalty or other payments in the future, or (ii) Exclusive Licenses from a Restricted Subsidiary that is not a Loan Party to a Loan Party of rights to a drug or other biologic or therapeutic products, diagnostic products, delivery technologies, medical devices or biotechnology businesses, or (iii) transfers of intellectual property (“Transferred IP”) to a Specified IP Subsidiary; provided that (x) such transfers do not, individually or in the aggregate, materially impair the Loan Parties’ ability to pay their obligations under the Loan Documents as when due, and (y) prior to such transfer, the Borrower shall have pledged 100% of the Equity Interests of such Specified IP Subsidiary to the Administrative Agent for the benefit of the Secured Parties (or 65% of the issued and outstanding voting Equity Interests and 100% of any issued and outstanding non-voting Equity Interests) if such Specified IP Subsidiary is a CFC or CFC Holdco pursuant to a pledge and collateral agreement satisfactory to the Administrative Agent;

(c) consisting of the licensing (or equivalent thereof), acquisition, sale or contribution of intellectual property or proprietary materials pursuant to pharmaceutical or therapeutic product licensing, collaboration, development, promotion, marketing, supply, research or similar arrangements with other Persons made in the ordinary course of business or not exceeding at any time outstanding an aggregate principal amount of the greater of (i) $30,000,000 and (ii) 10% of TTM Consolidated Adjusted EBITDA on a Pro Forma Basis;

(22) Permitted Acquisitions;

(23) Investments, if (a) no Default or Event of Default exists at such time of, or after giving effect to, such Investment and (b) the Total Net Leverage Ratio for the Test Period immediately preceding the incurrence of such Investment for which internal financial statements are available is less than or equal 1.75:1:00 (calculated on a Pro Forma Basis);

(24) Investments made pursuant to this clause (24) that do not exceed at any time outstanding the sum of (a) the greater of (i) $65,625,000 and (ii) 21.875% of TTM Consolidated Adjusted EBITDA on a Pro Forma Basis as of the applicable date of determination and (b) so long as no Event of Default shall have occurred and be continuing or would result from the making of any such Investment, the Available Amount at such time; and

(25) the issuance of, entry into (including any payments of premiums in connection therewith), performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any Permitted Bond Hedge Transaction; the issuance of, entry into, performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any related Permitted Warrant Transaction and the issuance of, entry into,
performance of obligations under (including any payments of interest), transfer, assignment, unwinding, settlement or early termination of, any Convertible Indebtedness, in each case, whether in cash, common stock of Borrower or any direct or indirect parent of Borrower or other securities or property following a merger event or other change of the common stock of Borrower or such parent.

For purposes of determining compliance with this Section 7.02, in the event that any Investment (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investment is made, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Investment (or any portion thereof) in any manner that complies with this covenant.

SECTION 7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, other than:

(1) Indebtedness under the Loan Documents (including Incremental Loans and Extended Loans);

(2) Convertible Indebtedness and any Permitted Refinancing thereof in an aggregate principal amount not to exceed at any one time outstanding $600,000,000, or any Guarantee by any direct or indirect parent of Borrower in respect of any of the foregoing (to the extent that such parent is a Guarantor);

(3) Credit Agreement Refinancing Indebtedness and any Permitted Refinancing thereof;

(4) (a) Indebtedness existing on the Restatement Effective Date and set forth on Schedule 7.03 and any Permitted Refinancing thereof, (b) intercompany Indebtedness outstanding on the Restatement Effective Date; provided, that all such Indebtedness of any Loan Party owed to any Non-Loan Party shall be subject to the Intercompany Subordination Agreement and (c) Indebtedness consisting of payments required under the Acquisition Agreement;

(5) (a) Guarantees in respect of Indebtedness of the Borrower or any of the Restricted Subsidiaries otherwise permitted hereunder; provided, that

   (i) no Guarantee by any Restricted Subsidiary of any Junior Financing shall be permitted under this clause (5)(a) unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty,

   (ii) if the Indebtedness being Guaranteed is subordinated in right of payment to the Obligations, such Guarantee shall be subordinated in right of payment to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination terms with respect to such Indebtedness, and

   (iii) a Restricted Subsidiary that is not a Loan Party may not, by virtue of this clause (5)(a), Guarantee Indebtedness that such Restricted Subsidiary would not otherwise be permitted to incur under this Section 7.03, and

(b) any Guarantee by the Borrower or any Guarantor of Indebtedness of a Restricted Subsidiary that would have been a Permitted Investment in such Restricted Subsidiary;

-145-
(6) Indebtedness of the Borrower or any of the Restricted Subsidiaries owing to the Borrower or any other Restricted Subsidiary to the extent constituting a Permitted Investment; provided, that all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subject to the Intercompany Subordination Agreement;

(7) (a) Attributable Indebtedness relating to any transaction,

(b) other Indebtedness (including Capitalized Leases) of the Borrower and the Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets, whether through the direct purchase of assets or the Equity Interests of any Person owning such assets, so long as such Indebtedness is incurred concurrently with, or within two hundred and seventy (270) days after, the applicable acquisition, construction, repair, replacement or improvement; provided, that the aggregate principal amount of such Indebtedness at any one time outstanding incurred pursuant to the preceding clause (a) and this clause (b) shall not exceed the greater of (i) $50,000,000 and (ii) 15% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis as of the applicable date of determination, in each case determined at the time of incurrence, and

(c) any Permitted Refinancing of Indebtedness incurred pursuant to the preceding clauses (a) and (b);

(8) Indebtedness in respect of (a) Obligations under Secured Hedge Agreements and (b) Hedge Agreements designed to hedge against the Borrower’s or any Restricted Subsidiary’s exposure to interest rates, foreign exchange rates or commodities pricing risks, in each case of clauses (a) and (b), incurred in the ordinary course of business and not for speculative purposes and Guarantees thereof;

(9) Indebtedness

(a) of any Person that becomes a Restricted Subsidiary after the Closing Date pursuant to a Permitted Investment, which Indebtedness is existing at the time such Person becomes a Restricted Subsidiary and was not incurred in contemplation of such Person becoming a Restricted Subsidiary, that is non-recourse to (and is not assumed by any of) the Borrower or any Restricted Subsidiary (other than any Subsidiary of such Person that is a Subsidiary on the date such Person becomes a Restricted Subsidiary after the Closing Date) and is either (A) unsecured or (B) secured only by the assets of such Restricted Subsidiary by Liens permitted under Section 7.01(22), and in each case, any Permitted Refinancing of any Indebtedness under this Section 7.03,

(b) of the Borrower or any Restricted Subsidiary assumed in connection with any Permitted Acquisition if the amount of debt assumed by Restricted Subsidiaries that are not Guarantors pursuant to this clause (b), when aggregated with the amount of Indebtedness assumed by Restricted Subsidiaries that are not Guarantors pursuant to clause (c) below does not exceed the greater of (i) $50,000,000 and (ii) 15% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis in each case determined at the time of incurrence, and

(c) any Permitted Refinancing of Indebtedness described in the foregoing clauses (a) through (b);
(10) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in a Permitted Investment or Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

(11) Indebtedness representing deferred compensation to employees of the Borrower and its Subsidiaries incurred in the ordinary course of business;

(12) Indebtedness to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of the Borrower;

(13) Indebtedness consisting of obligations of the Borrower and the Restricted Subsidiaries under deferred compensation or other similar arrangements with employees incurred by such Person in connection with the Transactions or any Permitted Investment;

(14) (a) Obligations in respect of Cash Management Obligations and (b) other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements, in each case of clauses (a) and (b), in the ordinary course of business;

(15) Indebtedness consisting of (a) the financing of insurance premiums or (b) take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;

(16) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers’ acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business consistent with past practice in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(17) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of theRestricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business;

(18) (a) Indebtedness in respect of letters of credit issued for the account of the Borrower or any Restricted Subsidiary so long as (i) such Indebtedness is unsecured and (ii) the aggregate face amount of such letters of credit does not exceed $12,500,000 at any time and (b) Indebtedness in respect of letters of credit that are fully cash collateralized;

(19) Indebtedness incurred by a Securitization Subsidiary in a Qualified Securitization Financing that is not recourse (except for Standard Securitization Undertakings) to the Borrower or any of the Restricted Subsidiaries;

(20) Indebtedness incurred by a Non-Loan Party which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (20) and then outstanding, does not exceed the greater of (a) $35,000,000 and (b) 10% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis, in each case determined at the time of incurrence;
Contribution Debt and any Permitted Refinancing thereof;

Permitted Ratio Debt and Incremental Equivalent Debt and any Permitted Refinancing (other than with respect to any Fixed Incremental Amount) thereof;

Indebtedness of the Borrower and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding not to exceed the greater of (a) $35,000,000 and (b) 15% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis, in each case determined at the time of incurrence;

Indebtedness incurred by a Foreign Subsidiary which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (24) and then outstanding, does not exceed the greater of (a) $25,000,000 and (b) 7.5% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis, in each case determined at the time of incurrence; and

any Permitted Convertible Indebtedness Call Transaction entered into in connection with any Convertible Indebtedness permitted by this Section 7.03;

all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (1) through (25) above.

Notwithstanding the foregoing, no Restricted Subsidiary that is a Non-Loan Party will guarantee any Indebtedness for borrowed money of a Loan Party unless such Restricted Subsidiary becomes a Guarantor.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant; provided, that all Indebtedness created pursuant to the Loan Documents will be deemed to have been incurred in reliance on the exception in clause (1) above and shall not be permitted to be reclassified pursuant to this paragraph.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower Dollar equivalent), in the case of revolving credit debt; provided, that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced ( plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses in connection therewith).

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security
constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

Any Indebtedness permitted to be incurred under this Section 7.03 may, at the option of the Borrower, be Convertible Indebtedness.

SECTION 7.04  Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of related transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:

(1) any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); provided, that

(a) the Borrower shall be the continuing or surviving Person, and

(b) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia,

(2) any Restricted Subsidiary that is not a Loan Party may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is not a Loan Party,

(b) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is a Loan Party,

(c) any merger the sole purpose of which is to reincorporate or reorganize a Loan Party in another jurisdiction in the United States shall be permitted, and

(d) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders;

provided, in the case of the preceding clauses (b) through (d), that (i) no Event of Default shall result therefrom and (ii) the surviving Person (or, with respect to the preceding clause (d), the Person who receives the assets of such dissolving or liquidated Restricted Subsidiary that is a Guarantor) shall be a Loan Party;

(3) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Restricted Subsidiary; provided, that if the transferor in such a transaction is a Loan Party, then (a) the transferee must be a Loan Party or (b) to the extent constituting an Investment, such Investment must be a permitted Investment in a Restricted Subsidiary which is not a Loan Party in accordance with Section 7.02 (other than Section 7.02(5));

(4) so long as no Default exists or would result therefrom, the Borrower may merge or consolidate with any other Person; provided, that (a) the Borrower shall be the continuing or surviving corporation or (b) if the Person formed by or surviving any such merger or consolidation is not the Borrower (any such Person, the “Successor Borrower”),

-149-
(i) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,

(ii) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent,

(iii) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower’s obligations under this Agreement,

(iv) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower’s obligations under this Agreement,

(v) if requested by the Collateral Agent, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower’s obligations under this Agreement, and

(vi) the Borrower will deliver to the Administrative Agent an officer’s certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement, and, with respect to such opinion of counsel only, including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent;

provided, further, that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

(5) [Reserved];

(6) so long as no Default exists or would result therefrom (in the case of a merger or consolidation involving a Loan Party), any Restricted Subsidiary may merge or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 7.02 (other than Section 7.02(5)); provided, that the continuing or surviving Person shall be (a) the Borrower or (b) aRestricted Subsidiary (provided, that if such Restricted Subsidiary is a Loan Party, then the continuing or surviving Person shall also be a Loan Party), in each case, which together with each of its Restricted Subsidiaries, shall have complied with the applicable requirements of Section 6.11;

(7) the Acquisition may be consummated; and

(8) so long as no Default exists or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(5) or a Disposition of all or substantially all of the assets of the Borrower and its Restricted Subsidiaries).
SECTION 7.05 **Dispositions**. Make any Disposition or enter into any agreement to make any Disposition, except:

(1) Dispositions of obsolete, damaged, worn out, used or surplus property (including for purposes of recycling), whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful in the conduct of the business of the Borrower and the Restricted Subsidiaries;

(2) Dispositions of inventory and goods held for sale in the ordinary course of business;

(3) Dispositions of property to the extent that (a) such property is exchanged for credit against the purchase price of similar replacement property or (b) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property; provided, that to the extent the property being transferred constitutes Collateral such replacement property shall constitute Collateral;

(4) Dispositions of property to the Borrower or a Restricted Subsidiary; provided, that if the transferor of such property is a Loan Party (a) the transferee thereof must be a Loan Party or (b) to the extent constituting an Investment, such Investment must be a Permitted Investment in a Restricted Subsidiary that is not a Loan Party in accordance with Section 7.02 (other than Section 7.02(5));

(5) Dispositions permitted by Sections 7.02 (other than Section 7.02(5)), 7.04 (other than Section 7.04(7)) and 7.06 (other than Section 7.06(4)) and Liens permitted by Section 7.01 (other than Section 7.01(21)(b));

(6) Dispositions of property pursuant to sale leaseback transactions; provided, that (a) no Event of Default exists or would result therefrom (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default exists) and (b) the applicable Net Cash Proceeds thereof are applied in accordance with Section 2.07(2)(b);

(7) Dispositions of Cash Equivalents; provided, that such Disposition shall be for no less than fair market value at the time of such Disposition as determined by the Borrower in good faith;

(8) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower and the Restricted Subsidiaries, taken as a whole, provided, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition as determined by the Borrower in good faith;

(9) transfers of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;

(10) Dispositions not otherwise permitted under this Section 7.05; provided, that

(a) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default exists), no Default exists or would result from such Disposition,
(b) With respect to any Disposition pursuant to this clause (10) for a purchase price in excess of $12,500,000, the Borrower and its Restricted Subsidiaries shall receive not less than 75% of the consideration for such Disposition in the form of cash or Cash Equivalents; provided, however, that for the purposes of this clause (b) each of the following shall be deemed to be cash:

(i) Any liabilities of the Borrower or its Restricted Subsidiaries (as shown on the Borrower’s or such Restricted Subsidiary’s most recent balance sheet provided hereunder or in the footnotes thereto) other than liabilities that are by their terms subordinated in right of payment to the Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and its Restricted Subsidiaries shall have been validly released by all applicable creditors in writing,

(ii) Any securities received by the Borrower or its Restricted Subsidiaries from such transferee that are converted by such Borrower or its Restricted Subsidiaries into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within one hundred and eighty (180) days following the closing of the applicable Disposition, and

(iii) Any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (iii) that is at that time outstanding, not in excess of the greater of (A) $15,000,000 and (B) 5.0% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis at the time of the receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being as determined by the Borrower in good faith and measured at the time received and without giving effect to subsequent changes in value,

(c) Such Disposition shall be for no less than fair market value at the time of such Disposition as determined by the Borrower in good faith; and

(d) The applicable Net Cash Proceeds thereof are applied in accordance with Section 2.07(2)(b);

(11) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(12) Dispositions or discounts of accounts receivable in connection with the collection or compromise thereof;

(13) Any issuance or sale of Equity Interests in, or sale of Indebtedness owing to or other securities of, an Unrestricted Subsidiary;

(14) To the extent allowable under Section 1031 of the Code (or comparable or successor provision), any exchange of like property (excluding any boot thereon permitted by such provision) for use in any business conducted by the Borrower or any of the Restricted Subsidiaries that is not in contravention of Section 7.07; provided that to the extent the property being transferred constitutes Collateral, such replacement property shall constitute Collateral;
(15) the unwinding of any Hedge Agreement;

(16) Dispositions of assets in connection with the closing or sale of a facility, including Dispositions of inventory, fee or leasehold interests in the premises of such facility, equipment and fixtures located at such premises, and the books and records relating to the operations of such facility; provided, that as to each and all such sales and closings, (a) no Event of Default shall be continuing and (b) such Dispositions shall be for no less than fair market value at the time of such Disposition as determined by the Borrower in good faith;

(17) Disposition of Securitization Assets to a Securitization Subsidiary; provided, that such Disposition shall be for no less than fair market value at the time of such Disposition as determined by the Borrower in good faith;

(18) the lapse or abandonment in the ordinary course of business of any registrations or applications for registration of any immaterial Intellectual Property; or the lease, sublease, license or sublicense outside the United States or the discontinuance of the use or maintenance, in each case, of any Intellectual Property, if the Borrower or any Restricted Subsidiary determines in its reasonable business judgment that it would not materially interfere with the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(19) Dispositions of any property or assets with a fair market value at the time of such Disposition (as determined by the Borrower in good faith) not to exceed $3,125,000 with respect to any transaction or series of related transactions or $12,500,000 in the aggregate for all such transactions in any fiscal year;

(20) any Disposition of assets acquired in a Permitted Investment that the Borrower determines in good faith will not be used or useful in the business of the Borrower and its Restricted Subsidiaries;

(21) Dispositions of certain pipeline assets required by regulatory authorities in connection with the Acquisition; provided, that the fair market value of the assets at the time of such Disposition (as determined by the Borrower in good faith) shall not exceed $40,000,000 in the aggregate;

(22) any Disposition(s) in connection with licensing of intellectual property to any Non-Loan Party Restricted Subsidiary or Non-Loan Party Restricted Subsidiaries in connection with bona fide tax planning purposes as determined in good faith by the Borrower; provided, that the Collateral and the Secured Parties are not materially prejudiced by such Disposition(s);

(23) Dispositions, including leases, subleases, licenses or sublicenses, of Products in Development in jurisdictions outside the United States; provided, that (a) such disposition does not materially interfere with the business of the Borrower and the Restricted Subsidiaries, taken as a whole and (b) such Disposition shall be for no less than the fair market value of such property at the time of such Disposition, in each case as determined by the Borrower in good faith; and

(24) the issuance of, entry into (including any payments of premiums in connection therewith), performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any Permitted Bond Hedge Transaction; the issuance of, entry into, performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any related Permitted Warrant Transaction and the issuance of, entry into,
performance of obligations under (including any payments of interest), transfer, assignment, unwinding, settlement or early
termination of, any Convertible Indebtedness, in each case, whether in cash, common stock of Borrower or any direct or indirect
parent of Borrower or other securities or property following a merger event or other change of the common stock of Borrower or such
parent.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral
shall be sold free and clear of the Liens created by the Loan Documents, and, if requested of the Administrative Agent, upon the certification
by the Borrower that such Disposition is permitted by this Agreement, the Administrative Agent shall be authorized to take any actions
deemed appropriate in order to effect the foregoing.

SECTION 7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(1) (a) each Restricted Subsidiary may make Restricted Payments to the Borrower and to any other Restricted Subsidiary,
and (b) a non-wholly owned Restricted Subsidiary may make Restricted Payments to the owners of any class or series of Equity
Interests of such Restricted Subsidiary ratably according to their relative ownership interests of such class or series;

(2) the Borrower and each of the Restricted Subsidiaries may make Restricted Payments payable solely in the form of
Equity Interests of such Person (other than Disqualified Equity Interests not otherwise permitted to be incurred under Section 7.03);

(3) Restricted Payments made on the Closing Date to consummate the Transactions;

(4) to the extent constituting Restricted Payments, the Borrower and the Restricted Subsidiaries may enter into and
consummate transactions expressly permitted by any provision of Section 7.02 (other than Section 7.02(5)), 7.04 or 7.08 (other than
Section 7.08(10));

(5) the Borrower may pay for the repurchase, retirement or other acquisition or retirement for value of its Equity Interests
held by any future, present or former employee, director, consultant or distributor (or any spouses, former spouses, successors,
executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower or any of its Subsidiaries upon the
death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee or director
equity plan, employee or director stock option or profits interest plan or any other employee or director benefit plan or any agreement
(including any stock subscription, shareholder or partnership agreement) with any employee, director, consultant or distributor of the
Borrower or any of its Subsidiaries in an aggregate amount after the Closing Date not to exceed $10,000,000 in any calendar year
with unused amounts in any calendar year being carried over to the next two succeeding calendar years; provided , that such amount
in any calendar year may be increased by

(a) an amount not to exceed the cash proceeds of key man life insurance policies received by the Borrower or the
Restricted Subsidiaries after the Closing Date,

(b) to the extent contributed in cash to the common equity of the Borrower and theretofore Not Otherwise Applied
utilized to make a Restricted Payment under this clause (5), the proceeds from the sale of Equity Interests of the Borrower, in
each case to
employees, directors, consultants or distributor of the Borrower or its Subsidiaries that occurs after the Closing Date, and

(c) the amount of any cash bonuses or other compensation otherwise payable to any future, present or former director, employee, consultant or distributor of the Borrower, a direct or indirect parent thereof, or its Subsidiaries that are foregone in return for the receipt of Equity Interests of the Borrower or any Restricted Subsidiary;

(6) any cash payments, or loans, advances, dividends or distributions to make payments, in lieu of issuing fractional shares in connection with share dividends, share splits, reverse share splits, mergers, consolidations, amalgamations or other business combinations and in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Borrower, any Restricted Subsidiary or any direct or indirect parent of the Borrower;

(7) the Borrower or any of the Restricted Subsidiaries may pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(8) [Reserved];

(9) the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration (a) such payment would have complied with the provisions of this Agreement and (b) no Event of Default occurred and was continuing;

(10) repurchases of Equity Interests (a) deemed to occur on the exercise of options, warrants or similar rights by the delivery of Equity Interests in satisfaction of the exercise price of such options, warrants or similar rights or (b) in consideration of withholding or similar Taxes payable by any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing), including deemed repurchases in connection with the exercise of stock options or the vesting of any equity awards;

(11) Restricted Payments in an aggregate amount not to exceed the sum of,

(a) the greater of (i) $15,000,000 and (ii) 7.5% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis as of the applicable date of determination, and

(b) the Available Amount at such time, if the Total Net Leverage Ratio (after giving Pro Forma Effect to the making of such Restricted Payment and the use of proceeds thereof) would be no greater than 2.00:1.00;

provided, that no Default or Event of Default is continuing at the time such Restricted Payment is made or would result therefrom; and

(12) Restricted Payments if the Total Net Leverage Ratio (after giving Pro Forma Effect to such Restricted Payment) would be less than or equal 1.25:1.00; provided, that no Default or Event of Default is continuing at the time such Restricted Payment is made or would result therefrom; and
(13) the issuance of, entry into (including any payments of premiums in connection therewith), performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any Permitted Bond Hedge Transaction; the issuance of, entry into, performance of obligations under, or transfer, assignment, unwinding, settlement or early termination of, any related Permitted Warrant Transaction and the issuance of, entry into, performance of obligations under (including any payments of interest), transfer, assignment, unwinding, settlement or early termination of, any Convertible Indebtedness, in each case, whether in cash, common stock of Borrower or any direct or indirect parent of Borrower or other securities or property following a merger event or other change of the common stock of Borrower or such parent.

The amount set forth in Section 7.06(11)(a) (without duplication) may, in lieu of Restricted Payments, be utilized by the Borrower or any Restricted Subsidiary to (a) make or hold any Investments without regards to Section 7.02 or (b) prepay, repay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing.

SECTION 7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Restricted Subsidiaries on the Restatement Effective Date or any business or any other activities that are not reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and its Restricted Subsidiaries on the Restatement Effective Date.

SECTION 7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than:

(1) transactions between or among the Borrower or any of the Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(2) transactions on terms substantially as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm’s-length transaction with a Person other than an Affiliate;

(3) the Transactions and the payment of fees and expenses (including the Transaction Expenses) related to the Transactions on or about the Closing Date to the extent disclosed in writing to the Administrative Agent prior to the Closing Date;

(4) the issuance or transfer of Equity Interests (other than Disqualified Equity Interests) of the Borrower to any Affiliate of the Borrower (including any Person that becomes an Affiliate as a result of such issuance or transfer) or any former, current or future officer, director, manager, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower or any of its Subsidiaries or any direct or indirect parent of the Borrower;

(5) any Guarantee by any direct or indirect parent of the Borrower permitted under Section 7.03(2), to the extent that such parent is a Guarantor;

(6) employment and severance arrangements and confidentiality agreements between the Borrower, the Restricted Subsidiaries, and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option, profits interest and other equity plans and employee benefit plans and arrangements;

-156-
(7) the non-exclusive licensing of trademarks, copyrights or other Intellectual Property in the ordinary course of business to permit the commercial exploitation of Intellectual Property between or among Affiliates and Subsidiaries of the Borrower;

(8) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants of the Borrower and the Restricted Subsidiaries or any direct or indirect parent of the Borrower in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries;

(9) any agreement, instrument or arrangement as in effect as of the Restatement Effective Date and set forth on Schedule 7.08, or any amendment thereto (so long as any such amendment is not adverse to the Lenders in any material respect as compared to the applicable agreement as in effect on the Restatement Effective Date);

(10) Restricted Payments permitted under Section 7.06 and Investments permitted under Sections 7.02(2), (3), (5), (6), (9), (13), (14), (17), and (18);

(11) [Reserved];

(12) transactions in which the Borrower or any of its Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 7.08(2);

(13) any transaction or series of related transactions with consideration valued at less than $1,250,000 (as determined in good faith by the Borrower);

(14) [Reserved];

(15) payments to or from, and transactions with, Joint Ventures (to the extent any such Joint Venture is only an Affiliate as a result of Investments by the Borrower and the Restricted Subsidiaries in such Joint Venture) in the ordinary course of business to the extent otherwise permitted under Section 7.02;

(16) any Disposition of Securitization Assets or related assets in connection with any Qualified Securitization Financing; and

(17) transactions approved by Impax’s board of directors so long as at least 75% of such board of directors consists of independent parties.

SECTION 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that prohibits, restricts, imposes any condition on or limits the ability of,

(1) any Restricted Subsidiary to make Restricted Payments to, or to make or repay loans or advances to, any Loan Party or to Guarantee the Obligations of any Loan Party under the Loan Documents or

(2) any Loan Party to create, incur, assume or suffer to exist Liens on its property securing the Obligations under the Loan Documents;
provided, that the foregoing clauses (1) and (2) shall not apply to Contractual Obligations that:

(a) (i) exist on the Restatement Effective Date and are listed on Schedule 7.09 and (ii) to the extent Contractual Obligations permitted by clause (i) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation;

(b) (i) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary or (ii) acquired in connection with a Permitted Investment, so long as, in each case, such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary or the consummation of such Permitted Investment;

(c) represent Indebtedness of a Restricted Subsidiary that is not a Loan Party;

(d) are customary restrictions that arise in connection with (i) any Lien permitted by Section 7.01(1), (5)(b), (16), (17), (18) (a), (18)(b), (21), (22), (23), (24), (25), (26), (27), (29), (30) or (31) and relate to the property subject to such Lien or (ii) any Disposition pending consummation of such Disposition solely with respect to the assets (including Equity Interests) subject to such Disposition;

(e) are customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures and applicable solely to such Joint Venture entered into in the ordinary course of business;

(f) are positive pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03, but only to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness (and excluding in any event any Indebtedness constituting any Junior Financing) and the proceeds and products thereof;

(g) are customary restrictions on leases, subleases, licenses or asset sale agreements so long as such restrictions relate to the assets subject thereto;

(h) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 7.03(3), (7), (9), (15)(a), or (20) to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(i) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary;

(j) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(k) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(l) arise in connection with cash or other deposits permitted under Section 7.01;
(m) comprise restrictions imposed by any agreement governing Indebtedness entered into after the Closing Date and permitted under Section 7.03 that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), so long as the Borrower shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required hereunder;

(n) apply by reason of any applicable Law, rule, regulation or order or are required by any Governmental Authority having jurisdiction over the Borrower or any Restricted Subsidiary; or

(o) customary restrictions contained in Indebtedness permitted to be incurred pursuant to Section 7.03, so long as no Restricted Subsidiary of the Borrower is restricted from (i) paying dividends or distributions to, or from repaying loans or transferring assets to, the Borrower and (ii) Guaranteeing the Obligations of a Loan Party or from creating, incurring, assuming or suffering to exist Liens on property of such Restricted Subsidiary for the benefit of the Lenders and the Obligations under the Loan Documents.

SECTION 7.10 Changes in Fiscal Year. Make any change in fiscal year; provided, however, that the Borrower may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, in which case, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

SECTION 7.11 Prepayments, Etc. of Indebtedness; Amendments to Certain Documents.

(1) (a) Make any payment in violation of any subordination terms of any Junior Financing Documentation; or

(b) Prepay, repay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing, it being understood that each of the following shall be permitted:

   (i) payments of regularly scheduled principal and interest (including default interest) with respect to Junior Financing;

   (ii) customary closing fees related to Junior Financing;

   (iii) [Reserved];

   (iv) indemnity and expense reimbursement payments with respect to such Junior Financing;

   (v) mandatory prepayments, mandatory redemptions and mandatory purchases, in each case, pursuant to the terms governing any Junior Financing (or any Permitted Refinancing thereof) as in effect on the date of incurrence or issuance of such Junior Financing (or such Permitted Refinancing);

   (vi) the refinancing thereof with the Net Cash Proceeds of, or in exchange for, any Permitted Refinancing, to the extent not required to prepay or Cash Collateralize any Loans or Obligations pursuant to Section 2.07(2) or to be utilized for any other purpose hereunder;
(vii) the conversion of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of the Borrower (including, pursuant to the applicable provisions of the Convertible Note Documents);

(viii) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to the Borrower or a Restricted Subsidiary;

(ix) the prepayment or refinancing of any Junior Financing with the proceeds of any other Junior Financing to the extent such proceeds are not required to be applied to prepay or Cash Collateralize any Loans or Obligations pursuant to Section 2.07(2);

(x) prepayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings prior to their scheduled maturity in an aggregate amount for all such prepayments, redemptions, purchases, defeasances and other payments not to exceed the sum of,

(A) the greater of (I) $56,250,000 and (II) 15% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis as of the applicable date of determination, and

(B) the Available Amount at such time;

provided, that no Default or Event of Default is continuing at the time such payment is made or would result therefrom; and

(xi) prepayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings prior to their scheduled maturity if the Total Net Leverage Ratio (after giving Pro Forma Effect to such payments) for the Test Period immediately preceding the incurrence of such payments shall be less than or equal to 1.25:1:00; provided, that no Default or Event of Default is continuing at the time such payments are made or would result therefrom.

(2) other than in connection with a Permitted Refinancing, amend, modify or change any Junior Financing Documentation in respect of Junior Financing having an aggregate outstanding principal amount equal to or greater than the Threshold Amount, in each case, except (a) as would not be materially adverse to the interests of the Lenders (as determined in good faith by the Borrower) or (b) with the consent of the Administrative Agent.

(3) Amend, modify or change its certificate or articles of incorporation (including, without limitation, by the filing or modification of any certificate or articles of designation), certificate of formation, limited liability company agreement or by-laws (or the equivalent organizational documents), as applicable, in each case, in any manner materially adverse to the interests of the Lenders (as determined in good faith by the Borrower).

Anything in this Agreement or any other Loan Document to the contrary notwithstanding, compliance with a covenant in this Article VII need not be permitted solely by reference to a basket or exception based on a financial ratio or a fixed dollar amount, but may be permitted in part by one such provision and in part on another, in the Borrower’s discretion. Unless the Borrower elects otherwise,
compliance shall be deemed to be first pursuant to a basket or exception based on a financial ratio prior to being applied to a basket or exception based on a fixed dollar amount.

ARTICLE VIII

Financial Covenant

So long as the Termination Conditions have not been satisfied, the Borrower and each of the Restricted Subsidiaries covenant and agree that:

SECTION 8.01 Total Net Leverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter that begins after the Closing Date, the Borrower will not permit the Total Net Leverage Ratio on the last day of each Test Period to be greater than 5.00:1.00.

SECTION 8.02 Borrower’s Right to Cure. Notwithstanding anything to the contrary contained in Section 8.01, in the event that the Total Net Leverage Ratio is greater than the amount set forth in Section 8.01 on the last day of any applicable Test Period, any equity contribution (in the form of common equity or other equity having terms reasonably acceptable to the Administrative Agent) made to the Borrower after the last day of such Test Period and on or prior to the day that is ten (10) Business Days after the day on which financial statements are required to be delivered for such Test Period (such date, the “Cure Expiration Date”) will, at the request of the Borrower, be included in the calculation of Consolidated Adjusted EBITDA solely for the purposes of determining compliance with the financial covenant set forth in Section 8.01 at the end of such Test Period and any subsequent period that includes a fiscal quarter in such Test Period (any such equity contribution, a “Specified Equity Contribution”); provided, that:

1. no Lender shall be required to make any extension of credit during the ten (10) Business Day period referred to above if the Borrower has not received the proceeds of such Specified Equity Contribution;

2. the Borrower shall not be permitted to so request that a Specified Equity Contribution be included in the calculation of Consolidated Adjusted EBITDA with respect to any fiscal quarter unless, after giving effect to such requested Specified Equity Contribution, there will be a period of at least two (2) consecutive fiscal quarters in the Relevant Four Fiscal Quarter Period in which no Specified Equity Contribution has been made;

3. no more than five (5) Specified Equity Contributions will be made in the aggregate;

4. the amount of any Specified Equity Contribution and the use of proceeds therefrom will be no greater than the amount required to cause the Borrower to be in compliance with Section 8.01;

5. all proceeds of Specified Equity Contributions will be disregarded for all other purposes under the Loan Documents (including calculating Consolidated Adjusted EBITDA for purposes of determining basket levels, pricing (including the Applicable Rate and the Applicable Commitment Fee) and other items governed by reference to Consolidated Adjusted EBITDA, and for purposes of the Restricted Payments covenant in Section 7.06 and the other negative covenants); and
there shall be no reduction in Indebtedness (whether on a pro forma basis or otherwise) with the proceeds of any Specified Equity Contribution for purposes of determining compliance with the financial covenant for the fiscal quarter for which such Specified Equity Contribution was made.

ARTICLE IX

Events of Default and Remedies

SECTION 9.01 Events of Default. Each of the events referred to in clauses (1) through (12) of this Section 9.01 shall constitute an “Event of Default”:

1. Non-Payment. The Borrower or any other Loan Party fails to pay (a) when and as required to be paid herein, any amount of principal of any Loan, or (b) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

2. Specific Covenants. The Borrower or any other Loan Party fails to perform or observe any term, covenant or agreement contained in (a) any of Section 6.03(1), 6.05(1) (solely with respect to the Borrower) or Article VII or (b) Section 8.01 (any such failure to observe any term, covenant or agreement contained in Section 8.01, a “Financial Covenant Event of Default”); or

3. Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 9.01(1) or Section 9.01(2)) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the earlier of (a) the date on which the Borrower becomes aware of any such failure and (b) receipt by the Borrower of written notice thereof from the Administrative Agent; or

4. Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by the Borrower or any Guarantor herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be untrue in any material respect (or, with respect to any representation, warranty, certification or statement already qualified by materiality or “Material Adverse Effect,” shall be untrue in any respect) when made or deemed made; or

5. Cross-Default. Any Loan Party or any Restricted Subsidiary

   (a) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) of not less than the Threshold Amount or

   (b) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs, the effect of which failure or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;
provided, that (i) Section 9.01(5)(b) shall not apply to (A) termination events or equivalent events pursuant to the terms of Hedge Agreements that do not result from a default thereunder by a Loan Party or Restricted Subsidiary, (B) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted under the documents providing for such Indebtedness, and (C) any redemption, repurchase, conversion or settlement (or the occurrence of any event or satisfaction of any condition giving rise to or permitting any of the foregoing) with respect to any Convertible Indebtedness pursuant to its terms unless such redemption, repurchase, conversion or settlement (or occurrence, giving rise to, or permitting any of the foregoing) results from a default thereunder or an event of the type that constitutes an Event of Default and (ii) such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Section 9.02; or

(6) Insolvency Proceedings, Etc. The Borrower or any Significant Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undischarged or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(7) Judgments. There is entered against the Borrower or any Significant Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied or failed to acknowledge coverage thereof) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(8) ERISA. (a) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of the Borrower or any Guarantor or their respective ERISA Affiliates in an aggregate amount that would reasonably be expected to result in a Material Adverse Effect or (b) the Borrower or any Guarantor or any of their respective ERISA Affiliates fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its Withdrawal Liability under Section 4201 of ERISA under a Multiemployer Plan that would reasonably be expected to result in a Material Adverse Effect; or

(9) Invalidity of Loan Documents. Any material provision of the Loan Documents, taken as a whole, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or the satisfaction in full of all the Obligations, ceases to be in full force and effect; or the Borrower or any Loan Party contests in writing the validity or enforceability of the Loan Documents, taken as a whole; or the Borrower or any Loan Party denies in writing that it has any or further liability or obligation under the Loan Documents, taken as a whole (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind the Loan Documents, taken as a whole; or
(10) **Collateral Documents and Guarantee.**

(a) Any Collateral Document shall for any reason cease to create, or any Lien purported to be created by such Collateral Document shall be asserted in writing by the Borrower or any Loan Party not to be, a valid and perfected Lien on a material portion of the Collateral with the priority required by the Collateral Documents, except

(i) as a result of a transaction permitted under the Loan Documents,

(ii) to the extent that any such loss of perfection or priority results from the failure of the Administrative Agent or the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file Uniform Commercial Code continuation statements, and

(iii) as to Collateral consisting of real property to the extent that such losses are covered by a lender’s title insurance policy and such insurer has not denied coverage, or

(b) Any Guarantee with respect to a Guarantor that is a Significant Subsidiary shall for any reason (other than the satisfaction in full of the Obligations or the release of such Guarantor as provided for under the Loan Documents) cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor that is a Significant Subsidiary shall repudiate its obligations thereunder; or

(11) **Junior Financing Documentation.**

(a) Any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be “Senior Indebtedness” (or any comparable term) or “Senior Secured Financing” (or any comparable term) under, and as defined in any Junior Financing Documentation governing Junior Financing that is subordinated in right of payment to the Obligations under the Loan Documents and that has an aggregate principal amount of greater than the Threshold Amount;

(b) the subordination provisions set forth in any Junior Financing Documentation governing any such Junior Financing shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of any such Junior Financing, if applicable; or

(c) any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be “First Lien Obligations” (or any comparable term) under, and as defined in the Intercreditor Agreements (except as expressly set forth in the Intercreditor Agreements); or

(12) **Change of Control.** There occurs any Change of Control.

**SECTION 9.02 Remedies upon Event of Default.**

(1) If any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of, the Required Lenders take any or all of the following actions:

-164-
(a) declare the Commitments of each Lender and the obligation of the Issuing Bank to issue Letters of Credit to be
terminated, whereupon such Commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and
all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without
presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each
Guarantor;

(c) require that the Borrower Cash Collateralize the Letters of Credit (in an amount equal to 103% of the maximum face
amount of all outstanding Letters of Credit); and

(d) exercise on behalf of itself, the Issuing Bank and the Lenders all rights and remedies available to it, the Issuing Bank
and the Lenders under the Loan Documents, under any document evidencing Indebtedness in respect of which the Facilities have
been designated as “Designated Senior Debt” (or any comparable term) or “First Lien Obligations” (or any comparable term) or under
applicable Law;

provided, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief
Law, the Commitments of each Lender and the obligations of the Issuing Bank to issue Letters of Credit shall automatically terminate, the
unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable
and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid shall automatically become effective, in each case
without further act of the Administrative Agent or any Lender.

(2) [Reserved].

(3) Notwithstanding anything to the contrary, the Administrative Agent may not take any of the actions set forth in this Section 9.02
with respect to a Financial Covenant Event of Default during the period commencing on the date that the Administrative Agent receives a
Notice of Intent to Cure and ending on the Cure Expiration Date with respect thereto in accordance with and to the extent permitted by
Section 8.02.

SECTION 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have
automatically become immediately due and payable as set forth in the proviso to Section 9.02(1)), any amounts received on account of the
Obligations shall, subject to the Intercreditor Agreements, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than
principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to
the Administrative Agent in its capacity as such;

Second, to payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among,
as applicable, the Administrative Agent, the Swing Line Lender and the Issuing Bank pro rata in accordance with the amounts of
Unfunded Advances/Participations owed to them on the date of any such distribution);
Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest and Letter of Credit fees) payable to the Lenders and the Issuing Bank (including Attorney Costs payable under Section 11.04 and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and interest on the Loans and Letter of Credit Usage, ratably among the Lenders and the Issuing Bank in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, (1) to payment of that portion of the Obligations constituting unpaid principal of the Loans, the Letter of Credit Usage and the Obligations under Secured Hedge Agreements and Cash Management Obligations and (2) to Cash Collateralize Letters of Credit (to the extent not otherwise Cash Collateralized pursuant to the terms of this Agreement) in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit and to further permanently reduce the Revolving Commitments by the amount of such Cash Collateralization, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fifth held by them; provided, that

(a) any such amounts applied pursuant to the foregoing subclause (2) shall be paid to the Administrative Agent for the ratable account of the Issuing Bank to Cash Collateralize such Letters of Credit,

(b) subject to Sections 2.04 and 2.19, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to this clause Fifth shall be applied to satisfy drawings under such Letters of Credit as they occur, and

(c) upon the expiration of any Letter of Credit, the pro rata share of Cash Collateral attributable to such expired Letter of Credit shall be applied by the Administrative Agent in accordance with the priority of payments set forth in this Section 9.03;

Sixth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date;

Seventh, to the payments due under Indebtedness subject to any Junior Lien Intercreditor Agreement; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

Notwithstanding the foregoing, amounts received from any Guarantor that is not an “Eligible Contract Participant” (as defined in the Commodity Exchange Act) shall not be applied to its Obligations that are Excluded Swap Obligations.

ARTICLE X

Administrative Agent and Other Agents

-166-
SECTION 10.01  Appointment and Authority of the Administrative Agent.

(1) Each Lender and the Issuing Bank hereby irrevocably appoints RBC to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any such provision. The Issuing Bank shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the Issuing Bank shall have all of the benefits and immunities (a) provided to the Agents in this Article X with respect to any acts taken or omissions suffered by the Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the Letter of Credit Documents pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article X and the definition of “Agent Related Person” included the Issuing Bank with respect to such acts or omissions, and (b) as additionally provided herein with respect to the Issuing Bank.

(2) The Administrative Agent shall also irrevocably act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank or Cash Management Bank) and the Issuing Bank hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and the Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 10.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Intercreditor Agreements), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

(3) Lenders shall act collectively through the Administrative Agent. The Required Lenders shall direct the Administrative Agent with respect to exercising rights and remedies available hereunder, and no individual Lender shall exercise a right or remedy hereunder other than through the Administrative Agent. The provisions of this Agreement shall be interpreted by, and all disputes concerning the occurrence, existence or continuance of a Default or Event of Default shall be conclusively resolved by, the Borrower and Administrative Agent, and no Person other than the Administrative Agent (acting at the direction of the Required Lenders) shall assert that a Default or Event of Default (or events giving rise to a Default or Event of Default) shall have occurred and be continuing hereunder.

SECTION 10.02  Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual
capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial
advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any
Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders,
and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account
for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information
regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such
Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 10.03 Exculpatory Provisions. Neither the Administrative Agent nor any other Agent, nor any of their respective
officers, partners, directors, employees or agents shall have any duties or obligations except those expressly set forth herein and in the other
Loan Documents. Without limiting the generality of the foregoing, an Agent (including the Administrative Agent) or any of their respective
officers, partners, directors, employees or agents:

(1) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is
continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents
with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any
agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create
or reflect only an administrative relationship between independent contracting parties;

(2) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary
rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed
in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in
the other Loan Documents), provided, that no Agent shall be required to take any action that, in its opinion or the opinion of its
counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law; and

(3) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and
shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to
or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the
Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in
good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross
negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties
expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing
such Default is given to the Administrative Agent by the Borrower or a Lender.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or
representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other
document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the

-168-
SECTION 10.04 Reliance by the Agents. The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan or the issuance of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. Each Agent may consult with legal counsel, independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate (or such greater number of Lenders as may be expressly required hereby in any instance) and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; provided, that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law.

SECTION 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article X shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents.

SECTION 10.06 Non-Reliance on Agents and Other Lenders; Disclosure of Information by Agents.

(1) Each Lender and the Issuing Bank acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender and the Issuing Bank represents to each Agent that it has, independently and
without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereunder. Each Lender and the Issuing Bank also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(2) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and making available its Revolving Commitments on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date. Each Lender, by delivering its signature page to the Restatement Agreement or an Assignment and Assumption and making available its Term Loans and/or Revolving Commitments on the Restatement Effective Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Restatement Effective Date.

SECTION 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Administrative Agent, each Agent, the Issuing Bank, the Swing Line Lender and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, the Issuing Bank or the Swing Line Lender, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Administrative Agent, each Agent, the Issuing Bank, the Swing Line Lender and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, the Issuing Bank or the Swing Line Lender, as applicable) from and against any and all Indemnified Liabilities incurred by it; provided, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person’s own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; provided, that to the extent the Issuing Bank or Swing Line Lender is entitled to indemnification under this Section 10.07 solely in its capacity and role as the Issuing Bank or as Swing Line Lender, as applicable, only the Revolving Lenders shall be required to indemnify the Issuing Bank or the Swing Line Lender, as the case may be, in accordance with this Section 10.07 (determined as of the time that the applicable payment is sought based on each Revolving Lender’s Pro Rata Share thereof at such time); provided, further, that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent, the Issuing Bank and the Swing Line Lender, as applicable, upon demand for its
ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent, the Issuing Bank or the Swing Line Lender, as applicable, 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, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent, the Issuing Bank or the Swing Line Lender, as applicable, is not reimbursed for such expenses by or on behalf of the Borrower, provided, that such reimbursement by the Lenders shall not affect the Borrower’s continuing reimbursement obligations with respect thereto, provided, further, that the failure of any Lender to indemnify or reimburse such Agent, the Issuing Bank or the Swing Line Lender, as applicable, shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Agent, other Agents, Swing Line Lender and the Issuing Bank.

SECTION 10.08 No Other Duties; Other Agents, Lead Arrangers, Managers, Etc. Each of RBC, Credit Suisse Securities (USA) LLC, Fifth Third Bank and BMO Capital Markets Corp. is appointed as a Lead Arranger and a Lead Bookrunner hereunder and each Lender hereby authorizes RBC, Credit Suisse Securities (USA) LLC, Fifth Third Bank and BMO Capital Markets Corp. to act as a Lead Arranger and a Lead Bookrunner in accordance with the terms hereof and the other Loan Documents.

Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Lead Bookrunners, the Lead Arrangers, the Co-Documentation Agents or the other Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, the Collateral Agent or a Lender hereunder and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 10.09 Resignation of Administrative Agent or Collateral Agent. The Administrative Agent or the Collateral Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent or Collateral Agent, as applicable, gives notice of its resignation, then the retiring Administrative Agent or Collateral Agent, as applicable, may on behalf of the Lenders appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; provided, that if the Administrative Agent or Collateral Agent, as applicable, shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time
as a successor of such Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent (subject to the proviso in the sentence above). Upon the acceptance of a successor’s appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (i) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (ii) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent or Collateral Agent, as applicable, and the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent’s resignation hereunder and under the other Loan Documents, the provisions of this Article X and Sections 10.07, 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Administrative Agent or Collateral Agent, as applicable.

SECTION 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or in respect of Letter of Credit Obligations shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

1. to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule’s disclosure requirements for entities representing more than one creditor;

2. to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Bank and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Bank and the Administrative Agent under Sections 2.11 and 11.04) allowed in such judicial proceeding; and

3. to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Bank to make such payments to
the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Bank, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or the Issuing Bank in any such proceeding.

SECTION 10.11 Collateral and Guaranty Matters. Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and the Issuing Bank irrevocably authorizes the Administrative Agent and the Collateral Agent to be the agent for and representative of the Lenders and Issuing Bank with respect to the Guaranty, the Collateral and the Collateral Documents; provided, that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations with respect to any Secured Hedge Agreement or Cash Management Obligations, and each of the Administrative Agent and the Collateral Agent agrees that it will:

1. release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document (i) upon satisfaction of the Termination Conditions, (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than the Borrower or any of its Domestic Subsidiaries that are Guarantors, (iii) subject to Section 11.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders, (iv) if such property becomes an Excluded Asset, or (v) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to clause (3) below;

2. release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(20);

3. release any Guarantor from its obligations under the Guaranty if in the case of any Subsidiary, such Person ceases to be a Restricted Subsidiary as a result of a transaction or designation permitted hereunder; provided, that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Credit Agreement Refinancing Indebtedness or any Junior Financing;

4. if any Guarantor shall cease to be a Material Subsidiary (as certified in writing by a Responsible Officer), and the Borrower notifies the Administrative Agent in writing that it wishes such Guarantor to be released from its obligations under the Guaranty and provides the Administrative Agent and the Collateral Agent such certifications or documents as either such Agent shall reasonably request, (i) release such Subsidiary from its obligations under the Guaranty and (ii) release any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary; provided, that no such release shall occur if such Subsidiary continues to be a guarantor in respect of any Credit Agreement Refinancing Indebtedness or any other Junior Financing; and
(5) act collectively through the Administrative Agent and, without limiting the delegation of authority to the Administrative Agent set forth herein, the Required Lenders shall direct the Administrative Agent with respect to the exercise of rights and remedies hereunder (including with respect to alleging the existence or occurrence of, and exercising rights and remedies as a result of, any Default or Event of Default in each case that could be waived with the consent of the Required Lenders), and such rights and remedies shall not be exercised other than by the Required Lenders through the Administrative Agent; provided, that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or enforcing compliance with the provisions set forth in the first proviso of Section 11.01 or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s and Collateral Agent’s authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 10.11. In each case as specified in this Section 10.11, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrower’s expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 10.11.

SECTION 10.12 Appointment of Supplemental Administrative Agents.

(1) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a “Supplemental Administrative Agent” and, collectively, as “Supplemental Administrative Agents”).

(2) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (a) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (b) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be
references to the Administrative Agent or such Supplemental Administrative Agent, as the context may require.

(3) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 10.13 Intercreditor Agreements.

(1) The Administrative Agent and the Collateral Agent are authorized to enter into the Intercreditor Agreements (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and the Lenders acknowledge that the Intercreditor Agreements will be binding upon them. Each Lender (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreements and (b) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into the Intercreditor Agreements (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and to subject the Liens on the Collateral securing the Obligations to the provisions thereof.

(2) Pursuant to the express terms of the Intercreditor Agreements, in the event of any conflict or inconsistency between the provisions of the Intercreditor Agreements and this Agreement, the provisions of the Intercreditor Agreements shall govern and control.

SECTION 10.14 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 9.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral or any Guaranty (including the release or impairment of any Collateral or Guaranty) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article X to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Cash Management Obligations or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Cash Management Obligations or such Obligations arising under Secured Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.
SECTION 10.15  Resignation as Issuing Bank or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, (x) if at any time any Swing Line Lender or Issuing Bank assigns all of its Revolving Commitment and Revolving Loans pursuant to Section 11.07(2) or (y) at any other time, with the written consent of the Borrower, such Swing Line Lender or Issuing Bank, as applicable, may, (i) upon thirty (30) calendar days’ notice to the Borrower and the Lenders, resign as Issuing Bank and/or (ii) upon thirty (30) calendar days’ notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as Issuing Bank or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Bank or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Issuing Bank or Swing Line Lender, as the case may be. If any Lender resigns as Issuing Bank, it shall retain all the rights, powers, privileges and duties of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all Letter of Credit Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Reimbursement Obligations pursuant to Section 2.07(3)). If any Lender resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.03(3). Upon the appointment of a successor Issuing Bank and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank or Swing Line Lender, as the case may be, and (b) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the resigning Issuing Bank to effectively assume the obligations of the resigning Issuing Bank with respect to such Letters of Credit.

SECTION 10.16  Withholding Tax. To the extent required by applicable Law, the Administrative Agent may withhold from any payment to any Lender under any Loan Document an amount equal to any applicable withholding Tax. If the IRS or any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from any amount paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties, additions to tax or interest thereon, together with all expenses incurred, including legal expenses and any out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error.

Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document against any amount due to the Administrative Agent under this Section 10.16. The agreements in this Section 10.16 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Facility, and the repayment, satisfaction or discharge of all Obligations. For the avoidance of doubt, for purposes of this Section 10.16, the term “Lender” includes any Issuing Bank and any Swing Line Lender.

ARTICLE XI

Miscellaneous

-176-
SECTION 11.01 Amendments, Waivers, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given;

provided, that no such amendment, waiver or consent shall:

(1) extend or increase the Commitment of any Lender or extend the final expiration date of any Letter of Credit beyond the Letter of Credit Expiration Date without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(2) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or Letter of Credit or with respect to any fees payable under Section 2.11(2) without the written consent of each Lender directly and adversely affected thereby, it being understood that (a) the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest and (b) the agreement, consent or waiver by the Required Revolving Lenders of interest or unused commitment fees as set forth in the paragraph immediately succeeding the table in the definitions of “Applicable Rate” and “Applicable Commitment Fee” in Section 1.01 shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(3) reduce the principal of, or the rate of interest specified herein on, any Loan or Letter of Credit, or (subject to clause (iii) of the second proviso of this Section 11.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby, it being understood that any change to the definitions of Total Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest and the agreement, consent or waiver by the applicable Required Facility Lenders or Required Revolving Lenders of interest or unused commitment fees as set forth in the definitions of “Applicable Rate” and “Applicable Commitment Fee” in Section 1.01 shall not constitute a reduction in the rate of interest specified herein or any fees or other amounts payable hereunder or under any other Loan Document; provided, that (a) only the consent of the Required Lenders shall be necessary to amend the definition of “Default Rate” and (b) only the consent of the Required Lenders or, with respect to any Default Rate payable pursuant to the paragraph immediately succeeding the table in the definition of “Applicable Rate” in Section 1.01, the Required Revolving Lenders with respect to the Revolving Loans or the applicable Required Facility Lenders with respect to the Term A-1 Loans, as applicable, shall be necessary to waive any obligation of the Borrowers to pay interest at the Default Rate or to waive any obligation of the Borrower to pay interest at the Default Rate;

(4) change any provision of this Section 11.01 (except as expressly set forth in the immediately following paragraph) or the definition of “Required Lenders”, “Required Facility Lenders” or “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender or change the definition of “Required Revolving Lenders” without the consent of each Revolving Lender.
other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors, without the written consent of each Lender; or

modify Section 2.15 or 9.03 without the written consent of each Lender directly and adversely affected thereby.

provided, further, that

(i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Issuing Bank under this Agreement, any Issuance Notice or any other Loan Document relating to any Letter of Credit issued or to be issued by it;

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Swing Line Lender under this Agreement or any other Loan Document;

(iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document;

(iv) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Loan Document;

(v) Section 11.07(7) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification;

(vi) the consent of the Required Revolving Lenders or Required Facility Lenders, as applicable, shall be required with respect to any amendment that by its terms adversely affects the rights of Lenders under such Facility in respect of payments hereunder in a manner different than such amendment affects other Facilities;

(vii) the consent of the Required Revolving Lenders and, as applicable, the applicable Required Facility Lenders (but without the consent of other Lenders, including the Required Lenders) shall be required (x) to amend, waive or otherwise modify any provision of the definition of “Applicable Rate” in Section 1.01 which provides for an agreement, consent or waiver by the Required Revolving Lenders or the Required Facility Lenders, as the case may be and (y) to amend, modify or waive any condition precedent set forth in Section 4.02 with respect to making Revolving Loans, Swing Line Loans or the issuance of Letters of Credit;
(viii) no Lender or Issuing Bank consent is required to effect any amendment or supplement to the Intercreditor Agreements or any other intercreditor agreement that is (A) for the purpose of adding the holders of Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt (or a Debt Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of the Intercreditor Agreements or such other intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing and provided that such other changes are not adverse, in any material respect, to the interests of the Lenders) or (B) expressly contemplated by the Intercreditor Agreements or any other intercreditor agreement;

(ix) the consent of the Administrative Agent (but without the consent of other Lenders, including the Required Lenders) shall be required to amend, waive or otherwise modify the Fee Letter; and

(x) the consent of the Administrative Agent and the Borrower (but without the consent of other Lenders, including the Required Lenders) shall be required to amend, waive or otherwise modify the Loan Documents to reflect the additional appointment of arrangers, bookrunners, agents or similar titles, which for the avoidance of doubt may be effectuated as a supplement to this Agreement.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders, the Required Lenders, the Required Facility Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (1) the Revolving Commitment of any Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender and (2) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the Replacement Loans (as defined below) to permit the refinancing of all outstanding Term Loans of any Class ("Refinanced Loans") with replacement term loans ("Replacement Loans") hereunder; provided, that (a) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Refinanced Loans, (b) the All-In Yield with respect to such Replacement Loans (or similar interest rate spread applicable to such Replacement Loans) shall not be higher than the All-In Yield for such Refinanced Loans (or similar interest rate spread applicable to such Refinanced Loans) immediately prior to such refinancing, (c) the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the Weighted Average Life to Maturity of such Refinanced Loans at the time of such refinancing (except by virtue of amortization or prepayment of the Refinanced Loans prior to the time of

-179-
such incurrence) and (d) all other terms and conditions (other than with respect to pricing, premiums and optional prepayment or redemption terms) applicable to such Replacement Loans shall be substantially identical to, or (taken as a whole as determined by the Borrower in its reasonable judgment) are no more favorable to the lenders or holders providing such Replacement Loans than those applicable to the Refinanced Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such refinancing (provided, that a certificate of a Responsible Officer delivered to the Administrative Agent at least five (5) Business Days prior to the incurrence of Replacement Loans, together with a reasonably detailed description of the material terms and conditions of such Replacement Loans or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (d) shall be conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent notifies the Borrower within such five (5) Business Day period that it disagrees with such determination (including a description of the basis upon which it disagrees)).

In addition, notwithstanding anything to the contrary contained in this Section 11.01, no amendment, modification or waiver of this Agreement or any Loan Document altering the ratable treatment of Obligations arising under Secured Hedge Agreements or under Cash Management Obligations resulting in such Obligations being junior in right of payment to principal on the Loans or resulting in Obligations owing to any Hedge Bank or any Cash Management Obligations becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof), in each case in a manner materially adverse to any Hedge Bank or any Cash Management Bank, shall be effective without the written consent of such Hedge Bank or such Cash Management Bank, as applicable.

In addition, notwithstanding anything to the contrary contained in this Section 11.01, the Guaranty, the Collateral Documents and related documents executed by the Borrower or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, mistakes or defects or (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents.

SECTION 11.02 Notices and Other Communications; Facsimile Copies

(1) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (2) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Borrower, the Issuing Bank, the Swing Line Lender, the Collateral Agent or the Administrative Agent, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(b) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.
Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent and transmission confirmation received (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (2) below shall be effective as provided in such subsection (2).

(2) **Electronic Communication.** Notices and other communications to any Agent, the Lenders, the Swing Line Lender and the Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Agent, Lender, the Swing Line Lender or the Issuing Bank pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article II by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided, that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes,

(a) notices and other communications sent to an e-mail address shall be deemed received upon the sender’s receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgement), provided, that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and

(b) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (a) of notification that such notice or communication is available and identifying the website address therefor.

(3) **The Platform.** THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons, any Lead Bookrunner or any Lead Arranger (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender, the Swing Line Lender, the Issuing Bank or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, the Issuing Bank, the Swing Line Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).
Change of Address. Each of the Borrower, the Administrative Agent, the Collateral Agent, the Issuing Bank and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Collateral Agent, the Issuing Bank and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (a) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (b) accurate wire instructions for such Lender.

Reliance by the Administrative Agent, the Issuing Bank and the Lenders. The Administrative Agent, the Issuing Bank and the Lenders shall be entitled to rely and act upon any notices (including Committed Loan Notices, Swing Line Loan Requests and Issuance Notices) purportedly given by or on behalf of the Borrower even if (a) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (b) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 11.03 No Waiver; Cumulative Remedies. No failure by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article IX for the benefit of all the Lenders and the Issuing Bank; provided, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the Issuing Bank or the Swing Line Lender from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as the Issuing Bank or the Swing Line Lender, as applicable) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.15) or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article IX and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

SECTION 11.04 Attorney Costs and Expenses. The Borrower agrees (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent and the Lead Arrangers for all reasonable and documented in reasonable detail out-of-pocket expenses incurred on or after the Closing Date (promptly upon written demand therefor) in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other
modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), limited, in the case of legal fees and expenses, to the Attorney Costs of Paul Hastings LLP and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole (which may be a single local counsel acting in multiple material jurisdictions), and (b) to pay or reimburse the Administrative Agent and the Lenders for all reasonable and documented in reasonable detail out-of-pocket costs and expenses (promptly following written demand therefor) incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, limited in the case of Attorney Costs to those of one counsel to the Administrative Agent and the Lenders taken as a whole and, if reasonably necessary, one local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of an actual conflict of interest between the Administrative Agent and the Lenders, where the Lender or Lenders affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent or any Lender may receive a benefit, including without limitation, a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent or such Lender, including, without limitation, fees paid pursuant to this Agreement or any other Loan Document.

SECTION 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, each Lender, the Lead Arrangers and their respective Affiliates, and their respective directors, officers, employees, agents, partners, and other representatives (collectively, the “Indemnitees”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, a single local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of a conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated taken as a whole) (a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower), (b) any Commitment, Loan or the use or proposed use of the proceeds therefrom, (c) any actual or alleged presence or release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim or Environmental Liability arising out of the activities or operations of or otherwise related to the Borrower or any other Loan Party, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation,
litigation or proceeding) and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”); provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that a court of competent jurisdiction determines in a final-non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (w) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any Related Indemnified Person of such Indemnitee, (x) a material breach of any obligations of such Indemnitee under any Loan Document by such Indemnitee, or (y) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnitee other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent or a Lead Arranger under the Facility and other than any claims arising out of any act or omission of the Borrower or any of its Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct, bad faith or gross negligence of such Indemnitee or any Related Indemnified Person (as determined by a final and nonappealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date or the Restatement Effective Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within twenty (20) Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent, the Collateral Agent, the Swing Line Lender or the Issuing Bank, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to any taxes, except any taxes that represent losses, claims, damages, etc. arising from a non-tax claim.

**SECTION 11.06  Marshaling; Payments Set Aside.** None of the Administrative Agent or any Lender shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payments or the proceeds of such setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.
SECTION 11.07 Successors and Assigns.

(1) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not, except as permitted by Section 7.04, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (a) to an assignee in accordance with the provisions of subsection (2) of this Section, (b) by way of participation in accordance with the provisions of subsection (4) of this Section, or (c) by way of pledge or assignment of a security interest subject to the restrictions of subsection (6) of this Section, or (d) to an SPC in accordance with the provisions of subsection (7) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (4) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(2) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this Section 11.07(2), participations in Letters of Credit and in Swing Line Loans) at the time owing to it); provided, that any such assignment shall be subject to the following conditions:

(a) Minimum Amounts.

(i) in the case of an assignment of the entire remaining amount of the assigning Lender’s Term Loans at the time held by it, in the case of an assignment of the entire remaining amount of the assigning Lender’s Revolving Commitment and Revolving Loans at the time held by it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; an

(ii) with respect to any assignment not described in subsection (2)(a)(i) of this Section, such assignment shall be in an aggregate amount of not less than (a) with respect to the assigning Lender’s Term Loans, $1,000,000 and (b) with respect to the assigning Lender’s Revolving Commitment and Revolving Loans, $2,500,000 unless in each case of clauses (a) and (b) each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consents (such consent not to be unreasonably withheld or delayed).

(b) Proportionate Amounts. Each partial assignment of Term Loans shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Term Loans assigned and each partial assignment of Revolving Commitments or Revolving Loans shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Revolving Commitments or Revolving Loans being assigned except that this clause (b) shall not (i) apply to the Swing Line Lender’s rights and obligations in respect of Swing Line Loans or (ii) prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.
(c) **Required Consents.** No consent shall be required for any assignment except to the extent required by Section (2) (a)(ii) of this Section 11.07 and the following:

(i) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (A) a Specified Event of Default has occurred and is continuing at the time of such assignment or (B) such assignment is made (1) with respect to Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund and (2) with respect to Revolving Commitments and Revolving Loans, to a Revolving Lender; provided, however, that the Borrower shall be deemed to have consented to any assignment if the Borrower does not respond within ten (10) Business Days of a request for its consent with respect to such assignment;

(ii) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(iii) with respect to assignments of Revolving Loans or Revolving Commitments, the Issuing Bank (such consent not to be unreasonably withheld or delayed); and

(iv) with respect to assignments Revolving Loans or Revolving Commitments, the Swing Line Lender (such consent not to be unreasonably withheld or delayed).

Notwithstanding anything herein to the contrary, each of the Administrative Agent and the Borrower hereby consents to each assignment of the Initial Term Loans effected (or to be effected) by the Lead Arrangers (or any of its affiliates) to ultimate lenders of record under this Agreement (the identities of which were disclosed in writing to the Borrower prior to the Restatement Effective Date) in connection with the primary syndication of the Initial Term Loans.

(d) **Assignment and Assumption.** The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; provided, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(e) **No Assignments to Certain Persons.** No such assignment shall be made (i) to the Borrower or any of the Borrower’s Subsidiaries except as permitted under Section 2.07(1)(d), (ii) any of the Borrower’s Affiliates, (iii) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause, (iv) to a natural person or (v) to a Disqualified Lender. Notwithstanding anything to the contrary in this Agreement, the Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Lender.
Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (3) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by the Borrower or any Subsidiary) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this Section 11.07, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 11.04 and 11.05 with respect to facts and circumstances occurring prior to the effective date of such assignment); provided, that anything contained in any of the Loan Documents to the contrary notwithstanding, the Issuing Bank shall continue to have all rights and obligations with respect to any Letters of Credit until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder. Upon request, and the surrender by the assigning Lender of its applicable Notes, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (4) of this Section.

(3) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent’s Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans and Letter of Credit Obligations (specifying the Reimbursement Obligations), Letter of Credit Borrowings and other amounts due under Section 2.04 owing to each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower or any Lender (but only, in the case of a Lender, at the Administrative Agent’s Office and with respect to any entry relating to such Lender’s Commitments, Loans, Letter of Credit Obligations and other Obligations), at any reasonable time and from time to time upon reasonable prior notice. This Section 11.07(3) and Section 2.13 shall be construed so that all Loans are at all times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(4) Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Issuing Bank or the Swing Line Lender sell participations to any Person (other than a natural person, a Disqualified Lender or the Borrower or any of the Borrower’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights or obligations under this Agreement (including all or a portion of its Commitment or the Loans (including such Lender’s participations in Letters of Credit or Swing Line Loans) owing to it); provided, that (a) such Lender’s obligations under this Agreement shall remain unchanged, (b) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (c) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided, that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment,
waiver or other modification described in the first proviso of the first paragraph of Section 11.01 (other than clauses (4) and (7) thereof) that
directly and adversely affects such Participant. Subject to subsection (5) of this Section, the Borrower agrees that each Participant shall be
entitled to the benefits of Sections 3.01 (subject to the requirements of Section 3.01, it being understood that the documentation required
under such Sections shall be delivered to the participating Lender), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it
were a Lender and had acquired its interest by assignment pursuant to subsection (2) of this Section 11.07. To the extent permitted by
applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; provided, that such
Participant agrees to be subject to Section 2.15 as though it were a Lender.

(5) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01,
3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless
the sale of the participation to such Participant is made with the Borrower’s prior written consent (such consent not to be unreasonably
withheld). Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a
register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations issued thereunder
relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant and the
principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under this Agreement (the “Participant
Register”). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is
necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury
regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose
name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice
to the contrary.

(6) Any Lender may, at any time, pledge or assign a security interest in all or any portion of its rights under this Agreement
(including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal
Reserve Bank or other central bank; provided, that no such pledge or assignment shall release such Lender from any of its obligations
hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(7) Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special
purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower
(an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to
this Agreement; provided, that (a) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (b) if an SPC elects not to
exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan
pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option
shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its
obligations under Sections 3.01, 3.04 and 3.05), unless the grant of option is made with the Borrower’s prior written consent, or such
entitlement to a greater payment results from a change in law after the exercise of the option takes place, (ii) no SPC shall be liable for any
indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all
purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender
of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and
as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall
survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding
commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (A) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (B) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

SECTION 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed:

(1) to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (1)),

(2) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners),

(3) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, provided, that the Administrative Agent, the Collateral Agent, such Lead Arranger or such Lender or the Issuing Bank, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(4) to any other party hereto,

(5) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(6) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (6)), to (a) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (b) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and their obligations,

(7) with the consent of the Borrower,

(8) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender) or
(9) to the extent such Information (a) becomes publicly available other than as a result of a breach of this Section or 
(b) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a non-confidential basis from a 
source other than the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a 
confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

For purposes of this Section, “Information” means all information received from any Loan Party or any Subsidiary thereof relating 
to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the 
Administrative Agent or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being 
understood that all information received from the Borrower or any Subsidiary after the Closing Date shall be deemed confidential unless such 
information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of 
Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary 
procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would 
accord to its own confidential information.

Each of the Administrative Agent and the Lenders acknowledges that (w) the Information may include Private-Side Information 
concerning the Borrower or a Subsidiary, as the case may be, (x) it has developed compliance procedures regarding the use of Private-Side 
Information and (y) it will handle such Private-Side Information in accordance with applicable Law, including United States Federal and state 
securities Laws.

SECTION 11.09 Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its respective 
Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the 
fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in 
whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or 
for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party 
now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall 
have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party 
may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or 
obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts 
so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of 
Sections 2.15 and 2.19 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in 
trust for the benefit of the Administrative Agent, the Issuing Bank, and the Lenders, and (y) the Defaulting Lender shall provide promptly to 
the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised 
such right of setoff. The rights of each Lender and the Issuing Bank and their respective Affiliates under this Section are in addition to other 
rights and remedies (including other rights of setoff) that such Lender or the Issuing Bank or Affiliates may have. Each Lender agrees to 
notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided, that the failure to give such 
notice shall not affect the validity of such setoff and application.

SECTION 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the 
interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations, shall not exceed the maximum rate of 
non-usurious interest permitted

-190-
by applicable Law (the “Maximum Rate”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 11.11  Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging (including in .pdf or .tif format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 11.12  Electronic Execution of Assignments and Certain Other Documents. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 11.13  Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

SECTION 11.14  Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
SECTION 11.15  GOVERNING LAW

(1)  THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE
CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING
EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF, BUT INCLUDING SECTION 5-1401 OF THE NEW YORK
GENERAL OBLIGATIONS LAW.

(2)  THE BORROWER, THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT AND EACH LENDER EACH
IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION
OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF
ANY UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK SITTING IN NEW YORK CITY IN THE
BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING
ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR
ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY
AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN
SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL
COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING
SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY
OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE
RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY
LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS
UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(3)  THE BORROWER, THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT AND EACH LENDER EACH
IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY
OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING
ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO
IN PARAGRAPH (2) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE
FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE
MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SECTION 11.16  WAIVER OF RIGHT TO TRIAL BY JURY

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREUNDER OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN

-192-
SECTION 11.17 Limitation of Liability. The Loan Parties agree that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnitee’s gross negligence or willful misconduct or bad faith or breach by such Indemnitee of its material obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnitee to a third party). Each party hereto hereby waives, releases and agrees (each for itself and on behalf of its Subsidiaries) 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.

SECTION 11.18 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law).

SECTION 11.19 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of setoff, rights on account of any banker’s lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent (which shall not be withheld in contravention of Section 10.04). The provision of this Section 11.19 is for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

SECTION 11.20 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or any Lead Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party’s name,
product photographs, logo or trademark. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and the Lead Arranger.

SECTION 11.21 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

SECTION 11.22 Service of Process. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 11.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Loan Parties acknowledge and agree, and acknowledge their Affiliates’ understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers and the Lead Bookrunners are arm’s-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers and the Lead Bookrunners, on the other hand, (B) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers and the Lead Bookrunners are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) none of the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers, the Lead Bookrunners nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers, the Lead Bookrunners, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Agents, Swing Line Lender, the Lead Arrangers, the Lead Bookrunners has any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Agents, the Issuing Bank, the Swing Line Lender, the Lead Arrangers, the Lead Bookrunners or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 11.24 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any Issuing Bank or any Lender, or the Administrative Agent, any Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such
Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.

SECTION 11.25 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and the Administrative Agent shall have been notified by each Lender and the Issuing Bank that each such Lender or the Issuing Bank has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent, each Lender and the Issuing Bank and their respective successors and assigns.

SECTION 11.26 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.27 Amendment and Restatement; No Novation. Upon the effectiveness of this Agreement, the provisions of this Agreement shall supersede the Prior Credit Agreement in its entirety; provided that the effectiveness of this Agreement shall not constitute a novation of any amount owing under the Prior Credit Agreement and all amounts owing in respect of principal, interest, fees and other amounts pursuant to the Prior Credit Agreement shall, to the extent not paid on or prior to the Restatement Effective Date, shall continue to be owing under this Agreement. From and after the Restatement Effective Date, all references to the “Credit Agreement” (or similar term) in the Loan Documents shall, unless the context plainly requires otherwise, refer to this Agreement and all obligations of any Loan Party under the Guaranty, the Security Agreement and each other Loan Document shall apply to this Agreement to the same extent as the Prior Credit Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

IMPAX LABORATORIES, INC., as the Borrower

By:

______________________________
Name:
Title:

[Signature Page to Credit Agreement]
ROYAL BANK OF CANADA, as Administrative Agent and Collateral Agent,

By:

_________________________________________
Name: 
Title: 

[Signature Page to Credit Agreement]
ROYAL BANK OF CANADA, as a Lender, Issuing

Bank and Swing Line Lender

By:

______________________________
Name:
Title:

[Signature Page to Credit Agreement]
[ ] , as a Lender

By:

Name:
Title:

[Signature Page to Credit Agreement]
ASSET PURCHASE AGREEMENT

BETWEEN

TEVA PHARMACEUTICAL INDUSTRIES LTD.

AND

IMPAX LABORATORIES, INC.

DATED AS OF

JUNE 20, 2016
# TABLE OF CONTENTS

## ARTICLE I. DEFINITIONS

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1.</td>
<td>Definitions</td>
<td>6</td>
</tr>
<tr>
<td>1.2.</td>
<td>Interpretation</td>
<td>12</td>
</tr>
<tr>
<td>1.3.</td>
<td>Currency</td>
<td>12</td>
</tr>
<tr>
<td>1.4.</td>
<td>Incorporation by Reference and Supremacy of FTC Order</td>
<td>12</td>
</tr>
</tbody>
</table>

## ARTICLE II. SALE AND PURCHASE OF TRANSFERRED ASSETS

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1.</td>
<td>Purchase and Sale</td>
<td>13</td>
</tr>
<tr>
<td>2.2.</td>
<td>Transferred Assets</td>
<td>13</td>
</tr>
<tr>
<td>2.3.</td>
<td>Assumption of Certain Liabilities and Obligations</td>
<td>14</td>
</tr>
<tr>
<td>2.4.</td>
<td>License to Certain Product Technology; License to Use Certain Information</td>
<td>15</td>
</tr>
<tr>
<td>2.5.</td>
<td>Covenant Not to Sue.</td>
<td>16</td>
</tr>
<tr>
<td>2.6.</td>
<td>Nonassignable Assets.</td>
<td>16</td>
</tr>
</tbody>
</table>

## ARTICLE III. PURCHASE PRICE

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.</td>
<td>Purchase Price</td>
<td>16</td>
</tr>
<tr>
<td>3.2.</td>
<td>Allocation of Purchase Price</td>
<td>17</td>
</tr>
<tr>
<td>3.3.</td>
<td>Transfer Taxes</td>
<td>17</td>
</tr>
</tbody>
</table>

## ARTICLE IV. THE CLOSING

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1.</td>
<td>Closing Date</td>
<td>17</td>
</tr>
<tr>
<td>4.2.</td>
<td>Transactions to Be Effected at the Closing</td>
<td>17</td>
</tr>
</tbody>
</table>

## ARTICLE V. REPRESENTATIONS AND WARRANTIES OF SELLER

<table>
<thead>
<tr>
<th>SECTION</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1.</td>
<td>Seller Organization; Good Standing</td>
<td>18</td>
</tr>
<tr>
<td>5.2.</td>
<td>Authority; Execution and Delivery</td>
<td>18</td>
</tr>
<tr>
<td>5.3.</td>
<td>Consents; No Violation, Etc.</td>
<td>18</td>
</tr>
<tr>
<td>5.4.</td>
<td>Title to Transferred Assets</td>
<td>19</td>
</tr>
<tr>
<td>5.5.</td>
<td>Litigation</td>
<td>19</td>
</tr>
<tr>
<td>5.6.</td>
<td>Regulatory Issues</td>
<td>20</td>
</tr>
<tr>
<td>5.7.</td>
<td>No Brokers</td>
<td>20</td>
</tr>
<tr>
<td>5.8.</td>
<td>Exclusive Representations and Warranties</td>
<td>20</td>
</tr>
<tr>
<td>SECTION 5.9.</td>
<td>Regulatory Commitments</td>
<td>20</td>
</tr>
<tr>
<td>SECTION 5.10.</td>
<td>Contracts to be Assumed; Customers</td>
<td>20</td>
</tr>
<tr>
<td>SECTION 5.11.</td>
<td>Inventory; Sales; and Cost.</td>
<td>21</td>
</tr>
<tr>
<td>SECTION 5.12.</td>
<td>Assets.</td>
<td>21</td>
</tr>
</tbody>
</table>
ARTICLE VI. REPRESENTATIONS AND WARRANTIES OF BUYER

SECTION 6.1. Buyer’s Organization; Good Standing
SECTION 6.2. Authority; Execution and Delivery
SECTION 6.3. Consents; No Violations, Etc.
SECTION 6.4. Litigation
SECTION 6.5. Development
SECTION 6.6. No Brokers
SECTION 6.7. Availability of Funds
SECTION 6.8. Solvency
SECTION 6.9. Independent Investigation; No Seller Warranty
SECTION 6.10. No Guarantee of FDA Approval

ARTICLE VII. CERTAIN COVENANTS AND AGREEMENTS OF SELLER

SECTION 7.1. Conduct of Business Until Closing
SECTION 7.2. Post-Closing Orders and Payments
SECTION 7.3. Technology Transfer; Assistance with Buyer Regulatory Filings
SECTION 7.4. Seller’s NDC Numbers
SECTION 7.5. Competition
SECTION 7.6. Sales Data; Customer

ARTICLE VIII. CERTAIN COVENANTS AND AGREEMENTS

SECTION 8.1. Insurance
SECTION 8.2. Books and Records
SECTION 8.3. Confidentiality
SECTION 8.4. Assumption of Regulatory Commitments
SECTION 8.5. Bulk Transfer Laws
SECTION 8.6. Buyer NDC Numbers; Buyer Trademarks and Buyer Trade Dress Changes
SECTION 8.7. Response to Medical Inquiries and Products Complaints
SECTION 8.8. Use of Transferred Assets

ARTICLE IX. OTHER COVENANTS AND AGREEMENTS

SECTION 9.1. Trade Returns, Medicaid Rebates, Chargebacks
SECTION 9.2. Adverse Experience Reports
SECTION 9.3. Transfer of Product ANDAs, Etc.
SECTION 9.4. Further Action; Consents; Filings
SECTION 9.5. Compliance with the Federal Trade Commission Decision
SECTION 9.6. Representations to Customers.
ARTICLE X. CONDITIONS PRECEDENT

SECTION 10.1. Conditions to Each Party’s Obligations
SECTION 10.2. Conditions to Obligations of Buyer
SECTION 10.3. Conditions to the Obligations of Seller

ARTICLE XI. TERMINATION, AMENDMENT AND WAIVER

SECTION 11.1. Termination
SECTION 11.2. Amendments and Waivers
SECTION 11.3. Rescission
SECTION 11.4. Modification

ARTICLE XII. INDEMNIFICATION

SECTION 12.1. Survival
SECTION 12.2. Indemnification by Seller
SECTION 12.3. Indemnification by Buyer
SECTION 12.4. Limitations.
SECTION 12.5. Procedure

ARTICLE XIII. GENERAL PROVISIONS

SECTION 13.1. Expenses
SECTION 13.2. Further Assurances and Actions
SECTION 13.3. Notices
SECTION 13.4. Headings
SECTION 13.5. Severability
SECTION 13.6. Counterparts
SECTION 13.7. Entire Agreement; No Third-Party Beneficiaries
SECTION 13.8. Governing Law
SECTION 13.9. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL
SECTION 13.10. Specific Performance
SECTION 13.11. Intentionally Omitted
SECTION 13.12. Publicity
SECTION 13.13. Assignment

Exhibit A  Assignment and Assumption Agreement
Exhibit B  Bill of Sale
Exhibit C  Products
Exhibit D  Supply Agreement
Exhibit E  Form of Customer Notice
<table>
<thead>
<tr>
<th>Appendix II</th>
<th>Provisions from Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix III</td>
<td>Seller NDC Number Transition Services</td>
</tr>
</tbody>
</table>

- iv -
ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of June 20, 2016 (the “Effective Date”), is made by and between Impax Laboratories, Inc., a Delaware corporation (“Buyer”), and Teva Pharmaceutical Industries Ltd., an Israeli corporation, acting directly or through its Affiliates (“Seller”).

WHEREAS, the FTC staff has raised the concern that the proposed acquisition (the “Proposed Allergan Transaction”) of certain businesses and assets of Allergan plc (“Allergan”) by Seller, pursuant to the Allergan Agreement, is likely to produce anticompetitive effects in the alleged relevant product market(s) in the United States for the generic pharmaceutical products listed on Exhibit C (as such products are more specifically identified in this Agreement), which would not be in the public interest, including, but not limited to, by eliminating competition between Seller and Allergan;

WHEREAS, in order to resolve the concerns raised by the FTC staff in these alleged product markets in the United States, Seller has agreed to enter into this Agreement with Buyer to divest certain assets related to these products to Buyer, and to permit Buyer to replace the lost competition by manufacturing, marketing and selling the generic products referred to above into the respective alleged product markets;

WHEREAS, the FTC has or is about to issue an Order governing the scope, nature, extent and requirements of this Agreement;

WHEREAS, Seller and/or its Affiliates sells the Products (as defined herein) commercially and/or has a Product ANDA (as defined herein) filed with the FDA with respect to the Products;

WHEREAS, upon and subject to the Allergan Closing, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, certain Transferred Assets (as defined herein) related to the Products within the Territory (as defined herein), all upon the terms and subject to the conditions hereinafter set forth; and

WHEREAS, concurrently with the execution of this Agreement, certain Persons who will be Affiliates of Seller as of the Closing entered into an asset purchase agreement with Buyer related to the Order (the “Other Acquisition Agreement”), pursuant to which such Affiliates of Seller as of the Closing have agreed to sell to Buyer, and Buyer has agreed to purchase from such Affiliates of Seller as of the Closing, certain Transferred Assets (as defined in the Other Acquisition Agreement) related to the Products (as defined in the Other Acquisition Agreement) within the Territory (as defined in the Other Acquisition Agreement), all upon the terms and conditions set forth therein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
ARTICLE I.
DEFINITIONS

SECTION 1.1. Definitions

As used in this Agreement, the following terms have the meanings set forth below:

“Affiliate” means any Person that controls, is controlled by, or is under common control with the applicable Person. For purposes of this definition, “control” shall mean: (a) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares entitled to vote for the election of directors, or otherwise having the power to control or direct the affairs of such Person; and (b) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50%) of the equity interest or the power to direct the management and policies of such noncorporate entities.

“Agreement” has the meaning set forth in the preamble.

“Allergan” has the meaning set forth in the recitals.

“Allergan Agreement” means the Master Purchase Agreement dated as of July 26, 2015 by and between Allergan and Seller, as it may be amended from time to time.

“Allergan Closing” means the closing of the Proposed Allergan Transaction pursuant to the Allergan Agreement.

“Allergan Agreement” means the Master Purchase Agreement dated as of July 26, 2015 by and between Allergan and Seller, as it may be amended from time to time.

“Application(s)” means all of the following: NDA, ANDA, “Supplemental New Drug Application”, or “Marketing Authorization Application”, the applications for a Product filed or to be filed with the FDA pursuant to 21 C.F.R. Part 314 et seq., and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto. “Application” also includes an “Investigational New Drug Application” filed or to be filed with the FDA pursuant to 21 C.F.R. Part 312, and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto.

“Assigned Contracts” means the Contracts set forth on Schedule 2.2(a)(vii), but solely with respect to the applicable Product, or Contracts or arrangements conferring substantially equivalent rights with respect to the applicable Products.

“Assigned Patents” means the patents set forth on Schedule 2.2(a)(vi) hereto and any related registrations or applications for registrations thereof.

“Assignment and Assumption Agreement” means an assignment and assumption agreement to be executed and delivered by Buyer and Seller at Closing, substantially in the form of Exhibit A.

“Assumed Liabilities” has the meaning set forth in Section 2.3(a).
“Bill of Sale” means a bill of sale to be executed and delivered by Seller to Buyer at Closing, substantially in the form of Exhibit B.

“Business Day” means any day other than a Friday, Saturday, Sunday or other day on which banks in the U.S. or Israel are permitted or required to close by Law.

“Buyer” has the meaning set forth in the preamble.

“Buyer Indemnified Parties” has the meaning set forth in Section 12.2.

“Buyer NDC Numbers” has the meaning set forth in Section 8.6.

“Buyer Officer’s Certificate” means a certificate, dated the Closing Date, duly executed by an authorized officer of Buyer, reasonably satisfactory in form to Seller, as to the satisfaction of the conditions set forth in Sections 10.3(a) and (b).

“Buyer Returns” has the meaning set forth in Section 9.1(a).

“Cap” has the meaning set forth in Section 12.4(a).

“Closing” and “Closing Date” have the respective meanings set forth in Section 4.1.

“Contracts” means contracts, leases, licenses, indentures, agreements, purchase orders and all other legally binding arrangements, whether in existence on the date hereof or subsequently entered into, including all amendments thereto.

“Customer List” has the meaning set forth in Section 5.10(c) hereof.

“Customer Notice” means the written notice to be sent to Customers in accordance with Section 7.6, in substantially the form attached hereto as Exhibit E.

“Customers” has the meaning set forth in Section 7.6(d).

“Deductible” has the meaning set forth in Section 12.4(a).

“Direct Cost” means the cost of (i) direct labor and direct material used and (ii) all other reasonable and documented out of pocket expenses, in each case, to provide the relevant assistance or service.

“Disclosing Party” has the meaning set forth in Section 8.3.

“Effective Date” has the meaning set forth in the preamble.

“Encumbrance” means, with respect to any asset, any imperfection of title, mortgage, charge, lien, security interest, easement, right of way, pledge or encumbrance of any nature whatsoever.

“Excluded Assets” has the meaning set forth in Section 2.2(b).

“Excluded Liabilities” has the meaning set forth in Section 2.3(b).
“Exhibits” means, collectively, the Exhibits referred to throughout this Agreement.

“Expiration Date” has the meaning set forth in Section 12.1.

“FDA” means the U.S. Food and Drug Administration.

“Finished Goods” means each of the Products, respectively, packaged, labeled and ready for distribution and sale in finished form.

“FTC” means the U.S. Federal Trade Commission.

“GAAP” means United States generally accepted accounting principles.

“Governmental Entity” means any nation or government or any court, administrative agency or commission or other governmental authority, body or instrumentality, whether U.S. (federal, state, country, municipal or other) or non-U.S.

“Governmental Rule” means any Law, judgment, order, decree, statute, ordinance, rule or regulation enacted, issued or promulgated by any Governmental Entity.

“Indemnified Party” has the meaning set forth in Section 12.3.

“Indemnifying Party” has the meaning set forth in Section 12.5(a).

“Knowledge” of (i) Seller means all such facts, circumstances or other information, of which Jamie Berlanska (VP of Finance & Controller – Americas), Maureen Cavanaugh (SVP General Manager US Generics), Vivian McCain (VP, Americas TPO Regional Head), Carol Devine (Senior PM TPO-PMO), Lauren Rabinovic (VP General Counsel NA Generic IP), Kirsten Bauer (SVP General Counsel TGO & Quality), and Dror Bashan (SVP BD and Strategic Initiatives) are actually aware and (ii) Buyer means all such facts, circumstances or other information, of which Frederick Wilkinson (President and Chief Executive Officer), Bryan Reasons (Senior Vice President, Finance and Chief Financial Officer), Mark Schlossberg (Senior Vice President and General Counsel) and Brandon Smith (Senior Vice President, Corporate Development and Strategy) are actually aware.

“Law” means each federal, state, provincial, municipal, local, or foreign law, statute, ordinance, order, determination, judgment, common law, code, rule, official standard, or regulation, enacted, enforced, entered, promulgated, or issued by any Governmental Entity.

“Liabilities” means any and all debts, liabilities and obligations of any kind, nature, character or description, whether accrued or fixed, absolute or contingent, matured or unmatured, or known or unknown, including those arising under any Governmental Rule or action and those arising under any Contract, arrangement, commitment or undertaking, or otherwise.

“License” has the meaning set forth in Section 2.4.

“Losses” means any and all damages, losses, Taxes, Liabilities, claims, judgments, penalties, payments, interest, costs and expenses (including reasonable and documented legal fees, accountants’ fees and expert witnesses’ fees and expenses incurred in investigating and/or prosecuting any claim for indemnification).

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Material Adverse Effect” means an effect which has had, or would reasonably be expected to have, a material adverse effect solely on the Transferred Assets or Product Technology taken as a whole, but will not include (a) any adverse change or effect due to changes in conditions generally affecting (i) the healthcare industry or (ii) the United States economy as a whole, or (b) any change or adverse effect caused by, or relating to (i) the commencement, occurrence, continuation, or intensification of any national or international political conditions, including the engagement by the United States or any other country or group in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment, or personnel of the United States or any other country or group, (ii) financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (iii) any changes in Law or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof, (iv) the occurrence, continuation or intensification of any earthquakes, hurricanes, pandemics, or other natural disasters, or any other force majeure event, whether or not caused by any Person, or any national or international calamity or crisis, (v) compliance with the terms of, or the taking of any action required by, this Agreement or the transactions contemplated hereby (including any action reasonably required by, or condition or other term reasonably imposed by, the FTC in connection with the Order) or (vi) the execution, announcement or pendency of this Agreement and the transactions contemplated by this Agreement; provided, however, that the changes set forth in the foregoing clauses (a)(i), (b)(iii) and (b)(iv) shall be taken into account in determining whether a “Material Adverse Effect” has occurred to the extent (and only to the extent) such changes have a disproportionate impact on the Transferred Assets or the Products, in each case, when compared to similar companies or products in the pharmaceutical industry.

“Medicaid Reimbursements and Rebates” means all discounts, rebates, reimbursements or other payments required by Governmental Rule to be made under Medicaid, Medicare or other governmental special medical assistance programs.

“NDC” means a national drug code as issued by the FDA.

“NDC Numbers” means the NDC Number for each of the Products, respectively.

“Net Price” means the price per unit of Product on a SKU-level basis charged by Seller as of [****], net of all discounts, rebates or promotions.

“Order” means the Decision and Order relating to the Products issued by the FTC in the proceeding captioned In the Matter of Teva Pharmaceutical Industries Ltd., a corporation.

“Other Acquisition Agreement” has the meaning set forth in the recitals.

“Permitted Encumbrances” means (a) any minor imperfections of title or similar Encumbrance that do not, and would not reasonably be expected to, individually or in the aggregate, materially impair the value or materially interfere with the use of, the Transferred Assets, the Product Technology, (b) Encumbrances for Taxes that are not yet due and payable, (c) Encumbrances that will be released at Closing, (d) statutory Encumbrances arising out of operation of Law with respect to a Liability incurred in the ordinary course of business and which is not delinquent, (e) Encumbrances

[****] - Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
incurred as a result of any facts or circumstances related to Buyer or its Affiliates and (f) Encumbrances set forth on Schedule 1.1.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, trust, business association, organization, Governmental Entity or other entity.

“Product ANDA” means, for each applicable Product, respectively, the Abbreviated New Drug Application (as defined in the United States Food, Drug, and Cosmetic Act) identified on Exhibit C, and all amendments and supplements thereto, that have been filed with the FDA seeking authorization and approval to manufacture, package, ship and sell such Products, as more fully defined in 21 C.F.R. Part 314 et seq.

“Product Approval(s)” means any approvals, registrations, permits, licenses, consents, authorizations, and other approvals, and pending applications and requests therefor, required by applicable Governmental Entities related to the research, development, manufacture, distribution, finishing, packaging, marketing, sale, storage, or transport of a Product within the United States of America, and includes, without limitation, all approvals, registrations, licenses, or authorizations granted in connection with any Application related to that Product.

“Products” means the Products listed on Exhibit C hereto to be purchased pursuant to this Agreement.

“Product Scientific and Regulatory Material” means all technological, scientific, development, chemical, biological, pharmacological, toxicological, regulatory, clinical trial materials, product safety related information (including periodic safety update reports and adverse event database information), written correspondence with any Governmental Entity and other data, files, records and other information (in any form or medium, wherever located) similar to the foregoing, in each case to the extent solely related to the Products that are owned by Seller and in Seller’s possession or control.

“Product Technology” means the following information owned by or to the extent licensed to Seller, as in existence and in the possession of Seller as of the Closing Date: the manufacturing technology, proprietary or confidential information, processes, techniques, protocols, methods, improvements and know-how that are necessary to manufacture the Products in accordance with the current applicable Product ANDA, as the case may be, including, but not limited to, the manufacturing process approved in the applicable Product ANDAs, specifications and test methods, raw material, packaging, stability and other applicable specifications, manufacturing and packaging instructions, master formula, validation reports to the extent available, stability data, analytical methods, records of complaints, annual product reviews to the extent available, and other master documents necessary for the manufacture, control and release of the Products as conducted by, or on behalf of, Seller or any of its Affiliates before the Effective Date. The Product Technology includes without limitation the rights owned or to the extent controlled by Seller under any patent issued in or subject to a pending application in the Territory as of the Closing Date, and any rights under any patent or patent application outside of the Territory solely to the extent necessary to manufacture the Products outside the Territory for importation to and sale in the Territory.

“Proposed Allergan Transaction” has the meaning set forth in the recitals.

- 10 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“**Purchase Price**” has the meaning set forth in Section 3.1.

“**Quality Agreement**” means the Quality Agreement to be executed by Buyer and Seller pursuant to the Supply Agreement.

“**Receiving Party**” has the meaning set forth in Section 8.3.

“**Schedules**” means, collectively, the Schedules referred to throughout this Agreement.

“**SEC Waiver Letter**” has the meaning set forth in Section 9.7.

“**Seller**” has the meaning set forth in the preamble.

“**Seller Indemnified Parties**” has the meaning set forth in Section 12.3.

“**Seller Officer’s Certificate**” means a certificate, dated the Closing Date, duly executed by an authorized officer of Seller, reasonably satisfactory in form to Buyer, as to the satisfaction of the conditions set forth in Sections 10.2(a), (b) and (c).

“**Seller Payments**” has the meaning set forth in Section 9.1(c).

“**Seller’s Taxes**” means all (i) Taxes arising out of, relating to or otherwise in respect of the Transferred Assets that are attributable to taxable periods, or portions thereof, ending on or prior to the Closing Date, provided that, in the case of any taxable period beginning on or prior to and ending after the Closing Date (a “**Straddle Period**”), Taxes assessed on an annual or other periodic basis allocated to the portion of the taxable period ending on or prior to the Closing Date shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the taxable period ending on or prior to the Closing Date and the denominator of which is the number of days in the entire Straddle Period; and (ii) Taxes imposed on, or incurred by, Seller or any Affiliate of Seller for which Seller or any Affiliate of Seller is liable that do not arise out of, relate to or otherwise are not in respect of the Transferred Assets.

“**SKU**” means a stock keeping unit.

“**Specifications**” has the meaning set forth in the Supply Agreement.

“**Supply Agreement**” means the Supply Agreement to be executed by Seller and Buyer, in substantially the form attached hereto as **Exhibit D**.

“**Tax(es)**” means all Federal, state, local and foreign taxes, customs, duties, governmental fees and assessments, including all interest, penalties and additions with respect thereto.

“**Tax Return**” means any report, return, election, notice, estimate, declaration, information statement and other forms and documents (including all schedules, exhibits and other attachments thereto) relating to and filed or required to be filed with a taxing authority in connection with any Taxes (including estimated Taxes).

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Territory” means the United States of America and its territories, protectorates and possessions, including Puerto Rico.

“Third Party Claim” has the meaning set forth in Section 12.5(b).

“Transferred Assets” has the meaning set forth in Section 2.2(a).

“Transition Products” has the meaning set forth in Appendix III.

“U.S.” or “U.S.A.” means the United States of America.

SECTION 1.2. Interpretation

When used in this Agreement, the words “include”, “includes” and “including” will be deemed to be followed by the words “without limitation.” Any terms defined in the singular will have a comparable meaning when used in the plural, and vice-versa.

SECTION 1.3. Currency

All currency amounts referred to in this Agreement are in U.S. Dollars, unless otherwise specified.

SECTION 1.4. Incorporation by Reference and Supremacy of FTC Order

(a) Incorporation of FTC Order. The parties hereby agree and acknowledge that the terms and provisions of the Order of the FTC shall govern this Agreement. A copy of the Order proposed as of the date hereof is attached as Appendix I, and upon issuance by the FTC, the final Order shall replace the currently proposed Order as Appendix I attached hereto without any other action by the parties hereto. The terms and provisions of the Order that pertain to this Agreement are hereby deemed incorporated by reference into this Agreement.

(b) Supremacy of FTC Order. To the extent that any term or provision of this Agreement conflicts with any corresponding term or provision of the Order, the parties hereby agree that the terms or provisions of the Order shall control the rights and obligations of the parties.

(c) Publicity of FTC Order. Buyer acknowledges that the Order will be publicly available and will include information regarding the Products, the Buyer and certain information regarding this Agreement and the Ancillary Agreements.

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
ARTICLE II.

SALE AND PURCHASE OF TRANSFERRED ASSETS

SECTION 2.1. Purchase and Sale

Upon the terms and subject to the conditions of this Agreement, on the Closing Date, Seller will sell, assign, transfer, convey and deliver to Buyer, and Buyer will purchase, acquire and accept, all right, title and interest, within the Territory, of Seller in, to and under the Transferred Assets free and clear of all Encumbrances other than Permitted Encumbrances.

SECTION 2.2. Transferred Assets

(a) The term “Transferred Assets” means the following assets of Seller, as the same exist on the Closing Date, that relate solely and exclusively to the Products (and for the avoidance of doubt, excluding the Excluded Assets):

(i) the Product ANDAs;
(ii) any correspondence with the FDA in Seller’s possession or control with respect to the Product ANDAs;
(iii) annual and periodic reports relating to the Product ANDAs which have been filed by or on behalf of Seller with the FDA, and adverse event reports pertaining to the Products, in each case as are in Seller’s possession or control;
(iv) the quantity and delivery terms in all outstanding customer purchase orders for the Products;
(v) the Product Scientific and Regulatory Material;
(vi) the Assigned Patents;
(vii) the Assigned Contracts;
(viii) all of Seller’s rights, title and interests to any active pharmaceutical ingredients relating to Products held by a contract manufacturer or located at a contract manufacturer’s premises; and
(ix) any other assets belonging to Seller that are required to be transferred pursuant to the Order.

(b) Seller and Buyer expressly agree and acknowledge that the Transferred Assets will not include any assets of any kind, nature, character or description (whether real personal or mixed, whether tangible or intangible, whether absolute, accrued, contingent, fixed or otherwise, and wherever situated) that are not expressly included within the definition of Transferred Assets (the “Excluded Assets”). Excluded Assets include, without limitation, the any refund of Seller’s Taxes, and all trademarks, and trade names not specifically included in the Transferred Assets and all brand names, logotypes, symbols, service marks, and trade dress, and any registrations or applications for registrations of any of the foregoing.

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(c) Buyer acknowledges and agrees that Seller may retain for archival purposes and for purposes of complying with the Supply Agreement, applicable law and for legal and regulatory purposes as a seller of pharmaceutical products, one copy of all or any part of the documentation that Seller delivers to Buyer pursuant to Section 2.2(a). The copies will be retained by Seller’s legal counsel and Seller agrees to treat such copies as confidential information (in accordance with Section 8.3 hereof).

SECTION 2.3. Assumption of Certain Liabilities and Obligations

(a) Buyer will assume, be responsible for and pay, perform and/or otherwise discharge when due those Liabilities (including any Liabilities arising in respect of Taxes) directly arising out of or in connection with or directly related to (x) the Transferred Assets, the use thereof, or the use of the Product Technology by or on behalf of Buyer or its Affiliates or their respective agents or assignees on or after the Closing Date and (y) the marketing, sale or use of the Products by or on behalf of Buyer or its Affiliates or their respective agents or assignees on or after the Closing Date; provided that, for the avoidance of doubt, such Assumed Liabilities shall include: (i) Liabilities arising from any patent infringement claim or lawsuit brought by any third party, the FDA or any other Governmental Entity, in all cases only to the extent that they relate to Product sold on or after the Closing Date; (ii) Liabilities arising from any FDA or any other Governmental Entity action or notification only to the extent that such Liabilities relate to Product sold by or on behalf of Buyer or its Affiliates; (iii) Liabilities arising from any product liability claims relating to Product sold by Buyer or its agents or assignees, except to the extent the Manufacturer (as defined in the Supply Agreement) is liable for such Liabilities pursuant to the Supply Agreement; (iv) Liabilities arising on or after the Closing Date from any plan of Risk Evaluation and Mitigation Strategies to the extent relating to any of the Products sold by Buyer or its Affiliates, or their respective agents or assignees; and (v) subject to the terms set forth in Appendix III solely with respect to the Transition Products, state and federal Medicaid/Medicare rebates and payments, and all credits, chargebacks, rebates, discounts, allowances, incentives and similar payments in connection with the sale of Products on or after the Closing Date by or on behalf of Buyer or its Affiliates (collectively, the “Assumed Liabilities”).

(b) Except to the extent expressly included in the Assumed Liabilities, Buyer will not assume or be responsible or liable for any Liabilities of Seller or its Affiliates, and shall in no event assume or be responsible or liable for any Liabilities arising out of or in connection with or related to (x) the Transferred Assets, the use thereof or the use of the Product Technology, in each case, by or on behalf of Seller or its Affiliates or their respective agents or assignees prior to the Closing Date, (y) the marketing, sale or use of the Products by or on behalf of Seller or its Affiliates or their respective agents or assignees prior to the Closing Date or liabilities that were incurred by Seller or its Affiliates prior to the Closing Date with respect to the Products and (z) for Seller’s Taxes (collectively, the “Excluded Liabilities”).

SECTION 2.4. License to Certain Product Technology; License to Use Certain Information

(a) Seller hereby irrevocably grants to Buyer as of the Closing Date (i) a royalty-free exclusive, perpetual license to use the Product Technology that is owned by Seller and presently used or held for use solely and specifically for the manufacture of the Products for sale in the Territory and not for other products of Seller or for sale in other territories, to market and sell Products in the Territory, and to manufacture Products for marketing and sale in the Territory, and (ii) a royalty-free, non-exclusive, perpetual license to use the Product Technology that is owned by Seller and used or held for use not solely and specifically for the manufacture of the Products, to

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
market and sell Products in the Territory and to manufacture Products for marketing and sale in the Territory (the “Licenses”). Each of the Licenses includes the right to grant sublicenses.

(b) Each party may modify or improve the Product Technology. The party making such modifications or improvements shall own all right, title and interest therein.

(c) Subject to, and in accordance with, the terms set forth in Appendix III, with respect to any Transition Product, (i) Seller agrees that Buyer may sell such Transition Product bearing Seller’s NDC Numbers, Seller’s or its Affiliate’s name, logo, trademark, and other information of Seller or its Affiliates, and (ii) Seller hereby irrevocably grants to Buyer as of the Closing Date a royalty-free, non-exclusive license solely during the Transition Services Period (as defined in Appendix III) applicable to a Transition Product to use the Seller NDC Numbers, Seller’s or its Affiliate’s name, logo, trademark and any other information of Seller or its Affiliates contained on the labels of such Transition Products solely in connection with the sale of such Transition Products by the Buyer.

SECTION 2.5. Covenant Not to Sue.

Each of the Seller and the Buyer hereby covenants that such party and its Affiliates will not bring any suits or claims, or cause or support any licensee or other third party to bring any suits or claims, against the other party or its Affiliates, their manufacturers and importers, or their distributors and customers or their consumers, alleging that the manufacture, use, sale, offer for sale or importation in or for the Territory of the Products, or the equivalent competing products sold by or on behalf of the Seller in or for the Territory, infringes any patent rights or misappropriates any trade secrets owned or controlled by such party or any of its Affiliates.


(a) Notwithstanding anything in this Agreement to the contrary, to the extent that the transfer or assignment to Buyer of any Transferred Asset is prohibited by any Governmental Rules or would require any authorizations, approvals, consents or waivers, and such authorizations, approvals, consents or waivers shall not have been obtained, neither this Agreement nor any document delivered pursuant hereto shall constitute a sale, assignment or transfer or an attempted assignment or transfer of such Transferred Asset if the applicable authorization, approval, consent or waiver has not been obtained by (or does not remain in full force and effect at) the Closing, unless and until such third party authorization, approval, consent or waiver is obtained, at which time such Transferred Asset shall be assumed and transferred to Buyer in accordance with the terms and conditions hereof.

(b) With respect to any such authorizations, approvals, consents, or waivers referred to in Section 2.6(a), following the Closing, the parties shall use their respective reasonable best efforts, and reasonably cooperate with each other, to obtain promptly such authorizations, approvals, consents or waivers. Pending such authorizations, approval, consents or waivers, the parties shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangements designed to provide to Buyer the benefits of use of such Transferred Assets and to Seller the benefits or

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
rights that they would have obtained had the Transferred Asset been conveyed to Buyer at the Closing. Once any authorization, approval, consent or waiver referred to in Section 2.6(a) is obtained following Closing, Seller shall assign, transfer, convey and deliver such Transferred Asset to Buyer at no additional cost to Buyer (other than out of pocket fees, costs and expenses incurred by Buyer in connection with such assignment, transfer, conveyance and delivery).

ARTICLE III.

PURCHASE PRICE

SECTION 3.1. Purchase Price

The purchase price for all of the Transferred Assets will be $[****] in cash to be paid on the Closing Date (the “Purchase Price”).

SECTION 3.2. Allocation of Purchase Price

The Purchase Price will be allocated among the Transferred Assets as of the Closing Date in accordance with applicable Law and as set forth in Schedule 3.2. Each of the parties hereto agrees to report (and to cause its Affiliates to report) the transactions contemplated by this Agreement in a manner consistent with applicable Law and with the terms of this Agreement, including the allocation provided in Schedule 3.2, and agrees not to take any position inconsistent therewith in any Tax Return, in any Tax refund claim, in any litigation or otherwise.

SECTION 3.3. Transfer Taxes

All transfer, sales, value added, stamp duty and similar Taxes payable in connection with the transactions contemplated hereby will be borne by Buyer.

ARTICLE IV.

THE CLOSING

SECTION 4.1. Closing Date

The closing of the (i) sale and transfer of the Transferred Assets, and (ii) license of the Product Technology pursuant to Section 2.4 (the “Closing”) will take place at the offices of Seller at 1090 Horsham Road, North Wales, PA 19454, or at another place designated by Seller, on the first Business Day following the date on which all of the conditions to each party’s obligations under Article X have been satisfied or (if permitted) waived, or at such other time, date and/or place as mutually agreed to by the parties hereto (such date of the Closing being hereinafter referred to as the “Closing Date”). The parties will use their reasonable best efforts to cause the Closing Date to occur on the same date as the date of the Allergan Closing.

SECTION 4.2. Transactions to Be Effected at the Closing

At the Closing:

(a) Seller will deliver or cause to be delivered to Buyer each of the items referred to in Section 10.2(d), in each case appropriately executed; and

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) Buyer will deliver or cause to be delivered to Seller (i) each of the items referred to in Section 10.3(d), in each case appropriately executed, and (ii) payment of the Purchase Price by wire transfer in immediately available funds, to the account or accounts designated in writing by Seller to Buyer.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

SECTION 5.1. Seller Organization; Good Standing

Seller is a corporation duly organized, validly existing and in good standing under the laws of Israel. Seller has the requisite power and authority to own and transfer all rights to the Transferred Assets, to license the Product Technology pursuant to Section 2.4 and to carry on its business as currently conducted. Seller is duly qualified to conduct business as a foreign corporation and is in good standing in each jurisdiction where the nature of the business conducted by it makes such qualification necessary, except where the failure to so qualify or be in good standing would not have a Material Adverse Effect. Seller is the Respondent to the Order.

SECTION 5.2. Authority; Execution and Delivery

Seller has the requisite corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement by Seller and the consummation of the transactions contemplated hereby have been duly and validly authorized and no other corporate proceeding is necessary on the part of Seller. This Agreement has been duly executed and delivered by Seller and, assuming the due authorization, execution and delivery of this Agreement by Buyer, will constitute the legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar laws affecting creditors’ rights generally from time to time in effect and to general principles of equity (including concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding in equity or at law.

SECTION 5.3. Consents; No Violation, Etc.

The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and the compliance with the terms hereof will not:

(a) violate any Governmental Rule applicable to Seller,

(b) conflict with any provision of the certificate of incorporation or by-laws (or similar organizational document) of Seller,

(c) except as set forth on Schedule 5.3, conflict with any contract to which Seller is a party or by which it is otherwise bound, including any Contract related to any of the Products or result in the creation of any Encumbrance upon any of the Transferred Assets (other than a Permitted Encumbrance),

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(d) subject to the foregoing clause (c), to the Knowledge of Seller, violate any rights of any third party; or

(e) require any approval, authorization, consent, license, exemption, filing or registration with any court, arbitrator or Governmental Entity other than approval of the FTC,

except, with respect to the foregoing clauses (a) and (c), for such violations or conflicts which would not have a Material Adverse Effect or materially interfere with Seller’s performance of its obligations hereunder and, with respect to the foregoing clause (e), (i) for receipt of FDA approval of any Product ANDA related to a Product that has not been approved by the FDA as of the Effective Date and (ii) otherwise, for such approvals, authorizations, consents, licenses, exemptions, filings or registrations that, if not obtained or made, would not have a Material Adverse Effect or interfere with Seller’s performance of its obligations hereunder.

SECTION 5.4. Title to Transferred Assets

Seller has good and valid title to all of the Transferred Assets and the right to license the Product Technology pursuant to Section 2.4 free and clear of all Encumbrances, other than Permitted Encumbrances. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL OF THE TRANSFERRED ASSETS ARE BEING SOLD, ASSIGNED, CONVEYED OR DELIVERED (AS APPLICABLE) TO BUYER ON AN “AS IS” “WHERE IS” BASIS WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT OF THIRD PARTY RIGHTS, AND ALL SUCH WARRANTIES ARE DISCLAIMED.

SECTION 5.5. Litigation

(a) There is no material suit, claim, action, investigation or proceeding pending or, to the Knowledge of Seller, threatened against Seller, that relates to the Transferred Assets, the Assumed Liabilities, the Product Technology that (i) challenges or seeks to prevent or enjoin the transactions contemplated by this Agreement, or (ii) has not been disclosed to Buyer in writing on Schedule 5.5(a) prior to the execution of this Agreement.

(b) Except as set forth on Schedule 5.5(b) hereto, during the twelve-month period ending on the Effective Date (i) Seller has not received any written notice from any other Person challenging its ownership or rights to use any Product Technology or intellectual property relating to the Products or its right to make, sell, offer for sale or import any Products, (ii) there has not been any, and there are no, material suits, claims, actions, investigations or proceedings pending or, to the Knowledge of Seller, threatened against Seller, relating to its ownership or rights to use any Product Technology or intellectual property relating to the Products or its right to make, sell, offer for sale or import any Products and (iii) there has not been any, and there are no, product liability suits, claims, actions, investigations or proceedings of any kind, including product liability, tort or breach of contract, pending or, to the Knowledge of Seller, threatened against Seller, relating to the Products, the Product Technology.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 5.6. Regulatory Issues

(a) Except as may be disclosed on Schedule 5.6(a) hereto, during the twelve-month period ending on the Effective Date, (i) with respect to the Products only, Seller has not received: (A) any FDA Form 483s or warning letters directly relating to the Products or the facilities in which the Products are manufactured; or (B) any FDA Notices of Adverse Findings with respect to the Products; and (ii) there has not been a recall or market withdrawal of any Product by Seller, whether voluntary or involuntary.

(b) Schedule 5.6(b) hereto sets forth a true and complete list of all documents, each of which has been made available to Buyer, relating to any Product and that set forth information from the last two (2) years relating to (i) adverse drug experience information, (ii) material events and matters concerning or affecting safety and (iii) medical inquiries and complaints brought to the attention of the Seller.

SECTION 5.7. No Brokers

Except as may be disclosed on Schedule 5.7 hereto, Seller has not entered into any agreement, arrangement or understanding with any Person or firm which will result in the obligation to pay any finder’s fee, brokerage commission or similar payment in connection with the transactions contemplated hereby.

SECTION 5.8. Exclusive Representations and Warranties

Other than the representations and warranties set forth in this Article V, Seller is not making any other representations or warranties, express or implied, with respect to the Products or the Transferred Assets or the Product Technology or any other matter, including but not limited to any warranty of merchantability or fitness for a particular purpose or infringement of third party rights, and all such warranties are disclaimed.

SECTION 5.9. Regulatory Commitments

Seller has complied in all material respects with all obligations arising from or related to any commitments to any Governmental Entity involving any Products. Seller and its Affiliates have been since January 1, 2014 in compliance in all material respects with all Laws applicable to the Transferred Assets, the Product Technology.

SECTION 5.10. Contracts to be Assumed; Customers

(a) Other than (i) the Assigned Contracts, (ii) any purchase orders or (iii) other Contracts with Customers there are no other material Contracts related to the Products.

(b) Each Contract that is a Transferred Asset is a legal, valid and binding obligation of Seller and is in full force and effect and, to the Knowledge of Seller, each other party thereto, enforceable against Seller and each other party in accordance with its terms (except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting creditors’ rights generally, and subject to the limitations imposed by general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity). Seller has performed all material obligations under each such Contract, has not received notice from any party claiming or alleging that Seller has breached or is in default thereunder and Seller is not (with or without lapse of time or notice, or both) in material

****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
breach or material default thereunder. To the Knowledge of Seller, each other party to each such Contract is not in material breach or default thereunder.

(c) Schedule 5.10(c) hereto sets forth (i) a true and complete list of Customers as of the Effective Date (the “Customer List”) and (ii) a list of active pharmaceutical ingredients in respect of the Products, the supplier thereof and the cost of such ingredients on a per kilogram basis.

SECTION 5.11. Inventory; Sales; and Cost.

Schedule 5.11 provides a true and accurate description of the inventory levels in respect of Seller’s three largest wholesalers of all Products by SKU as of [****] (or subsequent month end, if available) as communicated to Seller by such wholesalers.


Except (i) as set forth in Schedule 5.12 and (ii) for those assets used pursuant to, and materials, goods and services provided under, the Supply Agreement, the Transferred Assets, Product Technology, and the rights to be acquired under this Agreement and the Supply Agreement constitute all of the material assets used or held for use by Seller with respect to the Transferred Assets.


(a) From July 27, 2015 through the date hereof (the “Pre-Signing Period”), Seller has (i) conducted its business with respect to the Products and the Transferred Assets in all material respects in the ordinary course and in substantially the same manner as conducted prior to the Pre-Signing Period and (ii) maintained sales of Products and customer inventory levels in respect thereof in accordance with past practices of Seller prior to the Pre-Signing Period and reasonable industry standards.

(b) Since June 3, 2016, through the Effective Date, except as required by this Agreement or the Ancillary Agreements or in connection with the consummation of the transaction contemplated hereby, Seller has not taken any action (or made any omission) that, if taken (or omitted) after the Effective Date without the consent of Buyer would constitute a material violation of Section 7.1.

ARTICLE VI.

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

SECTION 6.1. Buyer’s Organization; Good Standing

Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer has all requisite corporate power and authority to carry on its business as it is currently being conducted. Buyer is duly qualified to conduct business as a foreign corporation and is in good standing in every jurisdiction where the nature of the business conducted

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
by it makes such qualification necessary, except where the failure to so qualify or be in good standing would not prevent or materially delay the consummation of the transactions contemplated hereby.

SECTION 6.2. Authority; Execution and Delivery

Buyer has the requisite corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation of the transactions contemplated hereby have been duly and validly authorized. This Agreement has been duly executed and delivered by Buyer and, assuming the due authorization, execution and delivery of this Agreement by Seller, constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar laws affecting creditors’ rights generally from time to time in effect and to general principles of equity (including concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding in equity or at law.

SECTION 6.3. Consents; No Violations, Etc.

The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and the compliance with the terms hereof will not (i) violate any Governmental Rule applicable to Buyer, (ii) conflict with any provision of the certificate of incorporation or by-laws of Buyer, (iii) conflict with any material contract to which Buyer is a party or by which it is otherwise bound or (iv) require any approval, authorization, consent, license, exemption, filing or registration with any court, arbitrator or Governmental Entity, other than approval of the FTC, except with respect to the foregoing clauses (i) and (iii), for such violations or conflicts which would not materially interfere with Buyer’s performance of its obligations hereunder or, with respect to the foregoing clause (iv), for the Order and such approvals, authorizations, consents, licenses, exemptions, filings or registrations which have been obtained or made or which, if not obtained or made, would not materially interfere with Buyer’s performance of its obligations hereunder.

SECTION 6.4. Litigation

There is no suit, claim, action, investigation or proceeding pending or, to the Knowledge of Buyer, threatened against Buyer or any of its Affiliates which, if adversely determined, would materially interfere with the ability of Buyer to perform its obligations hereunder or the consummation of the transactions contemplated hereby.

SECTION 6.5. Development

As of the date hereof, Buyer has not begun developing a generic version of any Product, has not filed a Product ANDA for a generic version of any Product, and does not own or have a right to distribute any product under a Product ANDA for a generic version of any Product or the corresponding NDA.

SECTION 6.6. No Brokers

Buyer has not entered into any agreement, arrangement or understanding with any Person or firm which will result in the obligation to pay any finder’s fee, brokerage commission or similar payment in connection with the transactions contemplated hereby for which Seller could be liable.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 6.7. Availability of Funds

At the Closing, Buyer will have cash available to it that is sufficient to enable it to make payment of the Purchase Price, to satisfy all of the Assumed Liabilities and to make all other necessary payments in connection with transactions contemplated by this Agreement.

SECTION 6.8. Solvency

(a) Immediately following the Closing, and after giving effect to all of the transactions contemplated by this Agreement, Buyer and its subsidiaries, on a consolidated basis, will be Solvent. In connection with the transactions contemplated by this Agreement, Buyer is not making any transfer of property and is not incurring any Liability with the intent to hinder, delay, or defraud, either present or future creditors of Buyer.

(b) For purposes of this Agreement, “Solvent” when used with respect to Buyer or the Transferred Assets acquired by Buyer hereunder means, as applicable, that immediately following the Closing Date, (i) the amount of the Present Fair Saleable Value of its assets will, as of such date, exceed all of its known Liabilities as of such date, (ii) such Person will not have, as of such date, an unreasonably small amount of capital for the business in which it is engaged or will be engaged, and (iii) such Person will be able to pay its Debts as they become absolute and mature, taking into account the timing of and amounts of cash to be received by it and the timing of and amounts of cash to be payable on or in respect of its Debts.

(c) For purposes of the definition of “Solvent”: (i) “Debt” means Liability on a Payment Right and “Payment Right” means (A) any right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured or (B) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; (ii) “Present Fair Saleable Value” means, with respect to Buyer or the Transferred Assets being acquired by Buyer hereunder, the amount that may be realized if its aggregate assets (including its goodwill) are sold as an entirety with reasonable promptness in an arm’s-length transaction under present conditions for the sale of comparable business enterprises; and (iii) the amount of any contingent Liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured Liability.

SECTION 6.9. Independent Investigation; No Seller Warranty

(a) Buyer has conducted its own independent investigation, review, and analysis of the Transferred Assets, the Products, the Product Technology and the Assumed Liabilities, has formed an independent judgment concerning the Transferred Assets, the Products, the Product Technology and the Assumed Liabilities and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Seller, for such purpose.

(b) Buyer acknowledges and represents that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of Seller set forth in this Agreement (including the related portions of the Schedules) and any certificates delivered [****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
hereunder; and (b) neither Seller nor any other Person has made, and the Buyer is not relying on, any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding Seller, its Affiliates, the Transferred Assets, the Products, the Product Technology or the Assumed Liabilities not expressly set forth in this Agreement (including any information, documents and materials made available to Buyer in any electronic data room or any repository of information, management presentations, or in any other form in expectation of the transactions contemplated hereby), and neither Seller nor any other Person will have or be subject to any Liability to Buyer or any other Person resulting from the distribution to Buyer or its representatives or Buyer’s use of any such information.

SECTION 6.10. No Guarantee of FDA Approval

Buyer acknowledges and agrees that Seller does not guarantee that FDA approval will be obtained for a Product ANDA that has not already been approved by FDA as of the date hereof and makes no representation or warranty hereunder with respect to any Product that has not already been approved by FDA as of the date hereof.

ARTICLE VII.

CERTAIN COVENANTS AND AGREEMENTS OF SELLER

SECTION 7.1. Conduct of Business Until Closing

During the period from the date of this Agreement and continuing until the Closing, Seller agrees that:

(a) Ordinary Course. Seller will conduct its business with respect to the Products and the Transferred Assets in all material respects in the ordinary course and in substantially the same manner as presently conducted and in accordance with the Order of the FTC, including, without limitation, (1) (i) maintaining sales of Products and customer inventory levels in respect thereof in accordance with past practices, historical sales data provided by Seller to Buyer pursuant to Section 7.6 hereof and reasonable industry standards and (ii) not engaging in any special promotional activities including special discounts, and (2) by using commercially reasonable efforts to, in each case in accordance with past practices hereof and reasonably industry standards, (i) not waive any material claims or rights related to the Products or the Transferred Assets, (ii) not terminate, modify or waive any material provision of any Assigned Contract, (iii) with respect to the Products and the Transferred Assets, as applicable, not materially alter the activities and practices with respect to inventory levels of the Products maintained at the wholesale, chain, institutional or retail levels in any material respect, (iv) seek FDA approval for the Product ANDA for any pipeline Product that has not already been approved by the FDA as of the Effective Date, (v) maintain any Product ANDAs that have been approved by the FDA as of the Effective Date, (vi) comply with any Laws and FDA requests or requirements in respect of the Product ANDAs or the manufacture, distribution and sale of any of the Products pursuant to the Product ANDAs, in each case, in any material respect, (vii) maintain any Assigned Patents, (viii) maintain, in all material respects, the assets reasonably necessary to the manufacture of the Products, (ix) maintain sales efforts and sales levels consistent in all material respects with past

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
practice, or (x) not agree, in writing or otherwise, to take or authorize the taking of any actions that conflict with the foregoing; provided, however, that nothing contained herein will be deemed to require the expenditures of any funds outside of the ordinary course of business. Seller will not, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), amend or modify any Assigned Contract in a manner adverse to Buyer in any material respect, including any change in any price therein.

(b) No Dispositions. Seller will not sell, lease, license, encumber, pledge or transfer, or agree to sell, lease, license, encumber, pledge or transfer, any of the Transferred Assets, the Product Technology.

(c) No Settlements. Seller will not, without the prior written consent of Buyer (such consent not to be unreasonably withheld), (i) settle or agree to settle any claim, suit, action or other proceeding relating to the Products or the Transferred Assets brought against it by any Governmental Entity; provided, however, this Section 7.1(c) shall not apply with respect to the Order or (ii) initiate or agree to initiate any claim, suit, action or other proceeding relating to the Products or the Transferred Assets except to protect the Products or the Transferred Assets.

SECTION 7.2. Post-Closing Orders and Payments

From and after 12:01 A.M. (New York, New York, USA time) on the day immediately following the Closing Date, (i) Seller will promptly deliver to Buyer any payments received by Seller from third parties for Finished Goods purchased by the third parties from Buyer on or after the Closing Date, and refer all inquiries it will receive with respect to the Products (other than with respect to Excluded Assets or Excluded Liabilities), to Buyer or its designee; and (ii) Buyer will promptly deliver to Seller any payments received by Buyer from third parties for Finished Goods purchased by third parties from Seller or its Affiliates prior to the Closing.

SECTION 7.3. Technology Transfer; Assistance with Buyer Regulatory Filings

(a) Seller and Buyer will use commercially reasonable efforts to effect an orderly transfer of the Product Technology from Seller to Buyer pursuant to the terms of this Agreement as soon as practicable following the Closing Date. Seller will provide reasonable cooperation and assistance to Buyer, including, to the extent reasonably requested by Buyer, making available certain Seller personnel within relevant and appropriate functions and positions during normal business hours as reasonably requested by Buyer, in connection with such transfer of the Product Technology and Buyer’s preparation of all filings required to be filed with the FDA in order to obtain the necessary approvals for the manufacture and sale of on-market Products by Buyer in or for the Territory. Each party will bear the Direct Costs incurred by it and its Affiliates in connection with its activities undertaken under this Section 7.3(a).

(b) Except with respect to Seller’s assistance in connection with the transfer of the Product Technology as set forth above in Section 7.3(a), Buyer shall have sole responsibility for obtaining, and shall use commercially reasonable efforts to obtain, all regulatory approvals necessary for the offer, sale, importation, manufacture, distribution, marketing, promotion, import, export, pricing and reimbursement of the Products, including, without limitation, supplementing the Product ANDA to include facilities designated by Buyer and to delete Seller’s facilities, and assuming all responsibility for maintenance of the Product ANDAs. All decisions regarding the validation of Products and the conduct of regulatory activities with respect to the Products after the Closing Date shall be made by Buyer in its sole and absolute discretion, and all such regulatory activities shall be at its sole cost.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 7.4. Seller’s NDC Numbers

Buyer and its Affiliates will (i) sell Products only under Buyer NDC Numbers and (ii) not sell any Product under Seller’s or its Affiliates names, in each case, save to the extent contemplated or permitted hereunder (including in Section 2.4(c)) or under the Supply Agreement and subject to, and in compliance with, the terms set forth in Appendix III.

SECTION 7.5. Competition

(a) The parties hereto agree and acknowledge that the provisions of this Agreement will not be construed to limit or restrict in any manner the right of Seller or any of its Affiliates to develop, manufacture, use, sell or commercialize in any manner any pharmaceutical product, including any product competitive with the Products if sold under a Product ANDA or other filing that is not being purchased by Buyer as part of the Transferred Assets hereunder, either in the Territory or outside of the Territory.

(b) Nothing contained in this Agreement will be construed as prohibiting Seller or any of its Affiliates from: (a) acquiring (whether by merger, asset or stock acquisition or otherwise) another company, business or line of products (including by license thereof or through investment therein), which makes, has made, sells, has sold, markets, has marketed, distributes or has distributed or otherwise represents a product which is substantially similar to or equivalent to a Product and continuing to operate such company, business or line of products following such acquisition; or (b) entering into a joint venture, alliance or other similar collaborative arrangement between Seller or any of its Affiliates thereof and any third party which joint venture makes, has made, sells, has sold, markets, has marketed, distributes or has distributed a product which is substantially similar to or equivalent to a Product and continuing to participate in such collaboration.

SECTION 7.6. Sales Data; Customer

(a) On the Effective Date, Seller shall deliver to Buyer quarterly net sales data by SKU (as calculated by Seller in accordance with its standard practice) for the previous six (6) month period.

(b) Within [****] after the Closing Date, Seller shall update the Customer List and the information required to be provided pursuant to Section 7.6(a) as necessary, to ensure that such information remains materially accurate and complete up to and including the Closing Date.

(c) On or before the date that is [****] prior to the Closing Date, Seller shall deliver to Buyer a report setting forth (i) the monthly sold units per SKU by Customer for the Products (as calculated by Seller in accordance with its standard practice) for the previous six (6) month period and (ii) the current Net Price after all discounts by SKU by Customer.

(d) On or after the date that is [****] prior to the Closing Date, but in no event earlier than such date, and subject to Section 8.3 hereof, Buyer may contact the Customers and prospective customers to promote the Products and the distribution thereof; provided, for the avoidance of doubt, that prior to such date the Buyer shall not contact any Person to promote the Products and the distribution thereof.
(e) The parties hereto agree that as of the Closing Date, Buyer shall be permitted to distribute the Customer Notices to customers that have purchased the Products during the previous six (6) month period (the “Customers”).

ARTICLE VIII.

CERTAIN COVENANTS AND AGREEMENTS

SECTION 8.1. Insurance

At all times from the Closing Date through that date which is three (3) years after the termination or expiration of this Agreement, Buyer will maintain product liability and other insurance for itself (either in its own name or in the name of its Affiliates) in amounts, respectively, which are reasonable and customary in the USA pharmaceutical industry for companies of comparable size, provided that in no event shall the product liability insurance amounts be less than $25,000,000 per occurrence and $25,000,000 in the aggregate limit of liability per year. Buyer shall provide the Seller with written proof of such insurance upon Seller’s request.

SECTION 8.2. Books and Records

Buyer will preserve all books and records included within the Transferred Assets for applicable periods of time as required by the FDA or FTC and, subject to Section 8.3 hereof, make such books and records available for inspection and copying by Seller or its agents upon reasonable request and upon reasonable notice.

SECTION 8.3. Confidentiality

Each party hereto or its Affiliates or contractors (a “Disclosing Party”) may, from time to time, prior to or after the Effective Date, disclose to the other party (the “Receiving Party”) information of a technical or non-technical nature that is not generally known to the trade or public. The Receiving Party agrees that it will not use for any purpose other than as necessary to perform its obligations under this Agreement and the Supply Agreement or as otherwise permitted under this Agreement or the Supply Agreement, and will not disclose to anyone in any manner whatsoever, any such information, including, without limitation, information relating in any way to the products, processes, and services of the Disclosing Party, which becomes known to the Receiving Party on or prior to the latter of the date of the (a) termination of this Agreement or (b) termination or expiration of the Supply Agreement. The obligations of this Section 8.3 will not apply to information that (i) is known to the Receiving Party as shown by written records prior to its disclosure by the Disclosing Party or its Affiliates or its contractors; (ii) becomes public information or is generally available to the public other than by an unauthorized act or omission of the Receiving Party; or (iii) is received by the Receiving Party from third parties who are in rightful possession of such information and who are lawfully entitled to disclose such information to the Receiving Party and did not receive such information from Disclosing Party. From and after the Closing Date, the Transferred Assets and all confidential information related solely and exclusively to the Transferred Assets or the manufacture thereof shall be considered the confidential information of Buyer under this Section 8.3 and the obligations of this Section 8.3 in respect thereof will apply to Seller and not the Buyer, and to the extent any confidential information related to the Transferred Assets or the manufacture thereof is used by the Seller in its retained business, the use by Seller of such confidential information in its retained business in the ordinary course shall not be deemed a breach of this Section 8.3; provided,

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
however, that, for the avoidance of doubt, confidential information used by Seller in its retained businesses or the manufacture of the Transferred Assets that is not solely and exclusively related to the Transferred Assets shall constitute the confidential information of the Seller. Upon the latter of (x) the date of termination of this Agreement or (y) the termination or expiration of the Supply Agreement, the Receiving Party will return to the Disclosing Party all documents that include confidential information of the Disclosing Party or its contractors (other than the Transferred Assets), including all copies of such documents or extracts therefrom, if any, and will make no further use of such information. To the extent that the confidential information relates to the Products, each Disclosing Party or Receiving Party, as the case may be, shall create an internal firewall and use reasonable best efforts to protect against the disclosure of such information to such Disclosing Party’s or Receiving Party’s, as the case may be, marketing and sales personnel.

SECTION 8.4. Assumption of Regulatory Commitments

From and after the Closing Date, except as set forth in the terms set forth in Appendix III or the pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement, Buyer will assume control of, and responsibility for all costs and Liabilities arising from or related to any commitments or obligations to any Governmental Entity involving the Products, only to the extent arising from or relating to Product sold by Buyer after the Closing Date, and in the case of any Products that are subject to obtaining FDA approval of any unapproved Product ANDA, transferred to Buyer on the Closing Date.

SECTION 8.5. Bulk Transfer Laws

Buyer hereby waives compliance by Seller with the provisions of any so-called “bulk transfer law” of any jurisdiction in connection with the sale of the Transferred Assets to Buyer.

SECTION 8.6. Buyer NDC Numbers; Buyer Trademarks and Buyer Trade Dress Changes

Buyer covenants and agrees that, if not already applied for, immediately following the Effective Date (if permitted by Governmental Rule), or otherwise within five (5) days of the Closing Date, Buyer will apply for and initiate applicable processes to obtain and establish new NDC Numbers (the “Buyer NDC Numbers”) and notify Seller thereof.

SECTION 8.7. Response to Medical Inquiries and Products Complaints

After the Closing Date, except as set forth in the terms set forth in Appendix III or the pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement, Buyer will assume all responsibility for responding to any medical inquiries or complaints about the Products in the Territory.

SECTION 8.8. Use of Transferred Assets

Nothing contained in this Agreement will be construed as prohibiting Buyer or any of its Affiliates from: (a) acquiring (whether by merger, asset or stock acquisition or otherwise) another company, business or line of products (including by license thereof or through investment therein), which makes, has made, sells, has sold, markets, has marketed, distributes or has distributed or otherwise represents a product which is substantially similar to or equivalent to a Product and continuing to operate such company, business or line of products following such acquisition; or (b) entering into a joint venture, alliance or other similar collaborative arrangement between Buyer or any of its Affiliates thereof and any third party which joint venture makes, has made, sells, has sold,
markets, has marketed, distributes or has distributed a product which is substantially similar to or equivalent to a Product, and continuing to participate in such arrangement.

ARTICLE IX.

OTHER COVENANTS AND AGREEMENTS

SECTION 9.1. Trade Returns, Medicaid Rebates, Chargebacks

(a) (i) Buyer will, at its expense, process and bear the cost of returns of any Products bearing Buyer’s NDC Number sold by Buyer or its Affiliates and returned in accordance with Buyer’s returned goods policy (“Buyer Returns”) and (ii) Seller will, at its expense, process and bear the cost of returns on or after the Closing Date of all Products other than Buyer Returns.

(b) Seller and Buyer will be responsible for processing and payment of all Medicaid Reimbursements and Rebates for the Products sold bearing their respective NDC Numbers.

(c) Seller will be responsible for any and all payments, rebates, administrative fees or chargebacks due to customers under Seller’s contracts for Products bearing the Seller NDC Number which were sold by Seller or its Affiliates (“Seller Payments”). Buyer agrees that Seller shall have no responsibility for, and “Seller Payments” shall not include, credits for shelf stock adjustments or similar adjustments resulting from price decreases on or after the Closing Date. Buyer will be responsible for all payments, rebates, administrative fees or chargebacks due in connection with any and all sales of Products by or on behalf of Buyer, other than Seller Payments.

(d) Notwithstanding any term or provision of this Section 9.1 to the contrary, the parties agree that the terms set forth in Appendix III shall control the obligations of each party with respect to Medicaid Reimbursements and Rebates, returns, rebates, adverse event reporting, audits, administrative fees, chargebacks and shelf stock adjustments as more specifically set forth therein relating to sales of the Transition Products initially supplied to Buyer bearing the Seller NDC Numbers.

SECTION 9.2. Adverse Experience Reports

Seller shall continue to be responsible for adverse experience reporting to the FDA until the Closing Date. Buyer and Seller shall negotiate in good faith and agree on a process and procedure for sharing adverse event information for the Products in which Seller will manufacture and supply Buyer from a retained ANDA, which shall be documented in a pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement. For all other Products, Seller shall at all times provide to Buyer all adverse drug experience information brought to the attention of Seller in respect of the Products manufactured by Seller, as well as any material events and matters concerning or affecting safety of the Products manufactured by Seller. At and after the Closing, Seller shall cooperate with Buyer’s requests regarding adverse experience information in respect of the Products to ensure that all adverse experience data is transferred to Buyer, including data migration and transition reporting services as requested by Buyer consistent with Schedule 9.2. Each party will bear the Direct Costs incurred by it and its Affiliates in connection with its activities undertaken pursuant to Schedule 9.2. After the Closing Date, subject to this Agreement, the Supply Agreement, the Quality Agreement and any other agreement executed between the parties and/or their Affiliates with respect to any Product, Seller will submit to Buyer all adverse drug experience information brought to the attention of Seller in respect of the Products, as well as any material events.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
and matters concerning or affecting safety of the Products. After the Closing Date, any new adverse experience reports or any follow-up adverse experience reports received by Seller will be forwarded to Buyer, together with any source documents. Unless notified otherwise in writing by Buyer, Seller shall forward such reports to:

Impax Laboratories, Inc.
31047 Genstar Road
Hayward, CA 94544

Attention: Rachel J. Summers
Senior Director, Corporate Drug Safety Operations
Facsimile: (510) 240-6113.

SECTION 9.3. Transfer of Product ANDAs, Etc.

(a) Seller will cooperate with Buyer in disclosing any relevant records and reports which are required to be made, maintained and reported pursuant to Governmental Rules in the Territory with respect to the Product ANDAs that are part of the Transferred Assets.

(b) The parties hereto agree to use their reasonable efforts to take any other actions required by the FDA to effect the transactions contemplated hereby. On the Closing Date, each of the parties hereto will take any actions necessary to affect the transfer of the Product ANDAs from Seller to Buyer, including notices to the FDA regarding such transfer from Seller to Buyer of the Product ANDAs. Each party shall bear its own costs related thereto. The parties shall use their reasonable best efforts and take all necessary actions to cause the transfer of hard copies (to the extent reasonably in Seller’s possession) of the Product ANDAs to Buyer as soon as reasonably practicable after the Closing.

SECTION 9.4. Further Action; Consents; Filings

(a) Upon the terms and subject to the conditions hereof, each of Buyer and Seller will use commercially reasonable efforts to (i) take, or cause to be taken, all actions necessary, proper or advisable under applicable Governmental Rules or otherwise to satisfy the conditions to Closing set forth in Article X and consummate and make effective the transactions contemplated by this Agreement, (ii) obtain from the requisite Governmental Entities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement and (iii) make all necessary filings, and thereafter make any other advisable submissions, with respect to this Agreement and the transactions contemplated by this Agreement required under any applicable Governmental Rules, including without limitation all filings with the FDA or other Governmental Entity needed to obtain approval of Buyer to manufacture the Products in a timely and reasonable manner. Each of Seller and Buyer will provide copies of all non-confidential documents to the other party and its advisors prior to filing and, if requested, will accept all reasonable additions, deletions or changes suggested in connection therewith. Each of Seller and Buyer will furnish all information required for any application or other filing to be made pursuant to the rules and regulations of any applicable Governmental Rules in connection with the transactions contemplated by this Agreement.

(b) Each of Buyer and Seller shall use reasonable best efforts to obtain from the FTC preliminary approval for Buyer as the purchaser of the Transferred Assets. Each of Buyer and

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Seller agrees to cooperate and use its reasonable best efforts vigorously to contest and resist any action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order (whether temporary, preliminary or permanent) that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement, including by vigorously pursuing all available avenues of administrative and judicial appeal and all available legislative action.

SECTION 9.5. Compliance with the Federal Trade Commission Decision

Reference is made to the Order. The parties hereto agree that the provisions set forth in Appendix II, which provisions are called for by the Order, are incorporated into this Agreement as if set forth in their entirety in this Agreement. To the extent the provisions of Appendix II conflict with the provisions of this Agreement or the provisions of the Supply Agreement, the provisions of Appendix II shall govern.

SECTION 9.6. Representations to Customers.

During the [****] period following the Closing, Buyer and Seller each agrees not to make any false and/or disparaging statements about any Product.

SECTION 9.7. Financial Information.

Sellers shall, and shall cause its Affiliates to, use its reasonable best efforts to cause their accountants, auditors, counsel and other representatives to, (i) promptly cooperate with Buyer and provide all reasonable assistance to Buyer and its representatives (including providing Buyer access to its and its auditors’ relevant work papers and historical data as are reasonably required by Buyer to prepare the financial information referred to in this clause (i)) so that Buyer can, at its own cost and expense, prepare within [****] days following the Closing Date any audited and unaudited financial information in accordance with the requirements of Regulation S-X under the Securities Act and all other applicable accounting rules and regulations of the Securities and Exchange Commission promulgated thereunder that Buyer has reasonably determined that it is required to file in a Form 8-K or Form 8-K/A by Buyer as a result of the consummation of the transactions contemplated hereby (after giving effect to the waiver letter received by Buyer from the Securities and Exchange Commission on April 29, 2016 (the “SEC Waiver Letter”)) and further giving effect to the additional assets being acquired under this Agreement and not referred to in the SEC Waiver Letter (i.e., three years of financial information rather than one year of financial information)), (ii) to the extent the Closing Date is on or prior to June 30, 2016, provide to Buyer no later than [****] unaudited financial information reasonably necessary for Buyer to prepare pro forma financial information in respect of the Transaction required to be included in accordance with GAAP in Buyer’s quarterly report on Form 10-Q for the quarter ended June 30, 2016; provided that such unaudited financial information shall be limited to, and in accordance with terms of, that which is required under the SEC Waiver Letter and (iii) provide Buyer, for the twelve (12) month period following the Closing Date, such customary information reasonably requested by the Buyer to the extent relating to the Transferred Assets for inclusion in any registration statement, prospectus, Form 10-Q, Form 10-K or private placement memorandum. Buyer shall reimburse Seller and its Affiliates for all reasonable and

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
documented expenses (other than internal direct labor costs) incurred by Seller and its Affiliates in providing cooperation requested by Buyer pursuant to this Section 9.7.


Buyer and Seller agree to provide each other with such information and assistance as is reasonably necessary, at the cost of the requesting party, including access to records and personnel, for the preparation of any Tax Return or for the defense of any Tax claim or assessment related to the Transferred Assets or the Assumed Liabilities, whether in connection with an audit or otherwise; provided that the requesting party shall only reimburse the other party’s reasonable and documented out-of-pocket costs.

ARTICLE X.

CONDITIONS PRECEDENT

SECTION 10.1. Conditions to Each Party’s Obligations

The obligation of Buyer to purchase the Transferred Assets from Seller and assume the Assumed Liabilities and the obligations of Seller to sell, assign, convey and deliver the Transferred Assets to Buyer will be subject to the satisfaction prior to the Closing of the following conditions:

(a) No Litigation, Injunctions, or Restraints. No temporary restraining order, preliminary or permanent injunction or other legal restraint or prohibition preventing the consummation of the transactions contemplated by this Agreement will be threatened or in effect.

(b) FTC Preliminary Approval. The FTC shall have preliminarily approved the Buyer as the purchaser of the Transferred Assets hereunder.

(c) Allergan Closing. The Allergan Closing shall have occurred.

(d) Related Transactions. Prior to or concurrently with the Closing, the transactions contemplated by the Other Acquisition Agreement shall have been consummated.

SECTION 10.2. Conditions to Obligations of Buyer

The obligation of Buyer to purchase the Transferred Assets from Seller and to assume the Assumed Liabilities is subject to the satisfaction on and as of the Closing of each of the following additional conditions (any or all of which may be waived in whole or in part by Buyer):

(a) Representations and Warranties. The representations and warranties of Seller set forth in this Agreement will be true and correct (without giving effect to any materiality or Material Adverse Effect qualifications set forth therein) in all respects as of the Closing as though made on and as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties will be true and correct as of such earlier date), and except in each case for breaches of such representations and warranties that would not, individually or in the aggregate, have a Material Adverse Effect.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) **Performance of Obligations of Seller.** Seller will have performed or complied in all material respects with the obligations, conditions and covenants required to be performed by it under this Agreement at or prior to the Closing.

(c) **No Material Adverse Effect.** There shall not have been a Material Adverse Effect.

(d) **Deliveries.** Seller will have duly executed and delivered to Buyer, dated as of the Closing Date, the (i) Assignment and Assumption Agreement, (ii) Bill of Sale and (iii) Seller Officer’s Certificate.

### SECTION 10.3. Conditions to the Obligations of Seller

The obligations of Seller to sell, assign, convey, and deliver the Transferred Assets, or to cause the Transferred Assets to be sold, assigned, conveyed or delivered, as applicable, to Buyer are subject to the satisfaction on and as of the Closing of each of the following additional conditions (any or all of which may be waived in whole or in part by Seller):

(a) **Representations and Warranties.** The representations and warranties of Buyer set forth in this Agreement will be true and correct (without giving effect to any materiality or similar qualifications set forth therein) in all respects as of the Closing as though made on and as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties will be true and correct as of such earlier date), and except in each case for breaches of such representations and warranties that would not, individually or in the aggregate, have a Material Adverse Effect.

(b) **Performance of Obligations of Buyer.** Buyer will have performed in all material respects the obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) **Purchase Price.** Buyer will have paid the Purchase Price.

(d) **Deliveries.** Buyer will have duly executed and delivered to Seller, dated as of the Closing Date, the (i) Assignment and Assumption Agreement, (ii) the Bill of Sale, and (iii) the Buyer Officer’s Certificate.

### ARTICLE XI.

**TERMINATION, AMENDMENT AND WAIVER**

### SECTION 11.1. Termination

(a) Notwithstanding anything to the contrary in this Agreement, this Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

(i) by mutual written consent of Seller and Buyer;

(ii) by Seller if any of the conditions set forth in Section 10.1 or 10.3 will have become incapable of fulfillment and will not have been waived by Seller;

(iii) by Buyer if any of the conditions set forth in Section 10.1 or 10.2 will have become incapable of fulfillment and will not have been waived by Buyer;

---

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(iv) by Seller or Buyer if the Closing does not occur on or prior to one year from the Effective Date; provided, however, that the right to terminate this Agreement pursuant to this clause (iv) shall not be available to any party hereto whose action or failure to fulfill any obligation under this Agreement has been the primary cause of the failure of the Closing to have occurred on or prior to one year from the Effective Date;

(v) by Seller, if Buyer is not preliminarily approved by the FTC or other necessary Governmental Entity as a purchaser of the Transferred Assets hereunder;

(vi) by Seller, if the staff of the FTC informs Seller in writing that the staff will not recommend approval of Buyer as purchaser of the Transferred Assets hereunder; or

(vii) by Seller or Buyer if the Allergan Agreement is terminated prior to the consummation of the transactions contemplated by the Allergan Agreement.

provided, however, that the party seeking termination pursuant to clause (ii), (iii) or (iv) is not in breach of any of its representations, warranties, covenants or agreements contained in this Agreement.

(b) In the event of termination of this Agreement pursuant to this Section 11.1, written notice thereof will forthwith be given to the other party and the transactions contemplated by this Agreement will be terminated, without further action by any party. If the transactions contemplated by this Agreement are terminated as provided herein:

(i) Buyer will return all documents and other material received from Seller relating to the Products, the Transferred Assets, the Product Technology, or the transactions contemplated hereby, whether so obtained before or after the execution hereof, to Seller and, if applicable, Seller shall return any delivered portions of the Purchase Price to Buyer;

(ii) all confidential information received by Buyer with respect to Seller, the Products, the Transferred Assets, the Product Technology will be treated in accordance with Section 8.3, which will remain in full force and effect notwithstanding the termination of this Agreement; and

(iii) the Supply Agreement shall be terminated.

(c) If this Agreement is terminated, no party hereto and none of their respective directors, officers, stockholders, Affiliates or controlling Persons shall have any further liability or obligation under this Agreement, except as set forth in paragraphs (a) and (b) of this Section, except that (i) nothing in this Section 11.1 will be deemed to release any party from any liability for any willful and material breach by such party of the terms and provisions of this Agreement, and (ii) the provisions of Section 8.3 shall survive termination of this Agreement.

SECTION 11.2. Amendments and Waivers

This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto. By an instrument in writing, Buyer, on the one hand, or Seller, on the other hand, may waive compliance by the other party with any term or provision of this Agreement that such other party was or is obligated to comply with or perform.
SECTION 11.3. Rescission

If at the time the FTC determines to make final and effective its Order concerning the Proposed Allergan Transaction, the FTC notifies Seller that Buyer is not an acceptable purchaser of the Transferred Assets, then each of Seller and Buyer shall have the right immediately to rescind this Agreement, and the provisions of Sections 11.1(b) and 11.1(c) shall be applicable as if a termination of this Agreement had occurred.

SECTION 11.4. Modification

If at the time the FTC determines to make final and effective its Order concerning the Proposed Allergan Transaction, the FTC notifies Seller that this Agreement is not an acceptable manner of divestiture, Seller and Buyer shall reasonably seek to modify this Agreement as may be necessary to satisfy the FTC.

ARTICLE XII.

INDEMNIFICATION

SECTION 12.1. Survival

All representations and warranties of Seller and Buyer contained herein or made pursuant hereto shall survive the Closing Date and shall remain operative and in full force and effect for a period of twelve (12) months following the Closing Date (the “Expiration Date”). Notwithstanding anything herein to the contrary, any breach of a representation or warranty that is the subject of a claim that is asserted in writing prior to the Expiration Date shall survive with respect to such claim or any dispute with respect thereto until the final resolution thereof.

SECTION 12.2. Indemnification by Seller

(a) Subject to Section 12.4, Seller hereby agrees that from and after the Closing Date, Seller shall indemnify Buyer and its Affiliates and their respective officers, directors and employees (the “Buyer Indemnified Parties”) against, and hold them harmless from, and pay and reimburse such Parties for, any Losses to the extent such Losses arise from the following:

(i) the failure of any representation or warranty made by Seller contained in this Agreement to be true and accurate as of the Closing;

(ii) any breach by Seller of any of its covenants, agreements or obligations contained in this Agreement; and

(iii) any and all Excluded Assets and/or Excluded Liabilities.

SECTION 12.3. Indemnification by Buyer

(a) Subject to Section 12.4 hereof, Buyer hereby agrees that from and after the Closing Date, Buyer shall indemnify Seller and its Affiliates and their respective officers, directors and

- 34 -
employees (the “Seller Indemnified Parties”) against, and hold them harmless from, and pay and reimburse such Parties for, any Losses to the extent such Losses arise from the following:

(i) the failure of any representation or warranty made by Buyer contained in this Agreement to be true and accurate as of the Closing;

(ii) any breach by Buyer of any of its covenants, agreements or obligations contained in this Agreement; and

(iii) any and all Transferred Assets and/or Assumed Liabilities.

Buyer Indemnified Parties and Seller Indemnified Parties are sometimes referred to herein as “Indemnified Parties.”

SECTION 12.4. Limitations.

(a) The amount of any Losses for which either Seller or Buyer, as the case may be, is liable shall be reduced by (i) the amount of any insurance proceeds actually paid to the Buyer Indemnified Party and the Seller Indemnified Party, as applicable, and (ii) the aggregate amount actually recovered under any Assigned Contract (if applicable) or any other indemnity agreement, contribution agreement, or other Contract between any of the Indemnified Parties, on the one hand, and any third Person, on the other hand, with respect to such Losses.

Notwithstanding the other provisions of this Article XII, Seller shall not have any indemnification obligations for any individual Losses arising from or in connection with Section 12.2(a)(i) unless and until the aggregate amount of all such Losses, together with the amount of all such Losses under the Other Acquisition Agreement, exceed $2,879,000 (the “Deductible”), in which event Seller shall be required to pay the full amount of such Losses to the extent exceeding the Deductible, but only up to a maximum aggregate amount (with respect to this Agreement, together with the full amount of such Losses paid or payable by Seller under the Other Acquisition Agreement) of $57,580,000 (the “Cap”); provided, that with respect to any claim to which any Buyer Indemnified Party may be entitled to indemnification under Section 12.2, Seller shall not be liable for any individual or series of related Losses which do not exceed $100,000 and any Losses with respect thereto shall not be included in Losses for purposes of determining the Deductible or the Cap.

(b) In no event shall either party or any of its Affiliates be liable by reason of any breach of any representation, warranty, condition or other term of this Agreement or any duty of common law, for any punitive loss or damage and each party hereto agrees that it shall not make any such claim; provided that the foregoing does not limit any of the obligations or liability of either party or its Affiliates under Sections 12.2 and 12.3 with respect to claims of unrelated third parties.

(c) Neither Seller nor Buyer shall have any Liability under this Agreement in respect of any Loss if such Loss would not have arisen but for (i) a change in legislation or accounting policies after the Closing or (ii) a change in any Law after the Closing or a change in the interpretation of any Law after the Closing as determined by a Governmental Entity.

(d) For purposes of determining whether a failure of any representation or warranty made by Seller or Buyer contained in this Agreement is true and accurate as of the Closing and for calculating the amount of Losses indemnifiable hereunder, any materiality, Material Adverse Effect or similar qualifications in such representation or warranty shall be disregarded.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(e) Except for claims based on fraud, the right of the Buyer Indemnified Parties and the Seller Indemnified Parties under this Article XII shall be the sole and exclusive monetary remedy of the Buyer Indemnified Parties and the Seller Indemnified Parties, as the case may be, with respect to matters covered hereunder, including but not limited to claims relating to the Products, the Transferred Assets or Product Technology, Assumed Liabilities or Excluded Liabilities and no Indemnified Party shall have any other cause of action or remedy at law in equity for breach of contract, rescission, tort, or otherwise against the other party arising under or in connection with this Agreement and the matters and transactions contemplated hereby. Without limiting the generality of the preceding sentence, except in the case of specific performance and for claims based on fraud, no legal action sounding in contribution, tort, or strict liability (in each case, other than claims made or contemplated by this Article XII) may be maintained by an Indemnified Party, or any of its officers, directors, other governing bodies, employees, equityholders, owners, Affiliates, representatives, agents, successors, or assigns, against the Seller or Buyer or any of their Affiliates with respect to any matter that is the subject of Article XII, and Buyer and Seller, for themselves and the other Indemnified Parties and each of their respective officers, directors, other governing bodies, employees, equityholders, owners, Affiliates, representatives, agents, successors, and assigns, hereby waive any and all statutory rights of contribution or indemnification (other than rights of indemnification hereunder) that any of them might otherwise be entitled to under any Law with respect to any matter that is the subject of this Article XII.

SECTION 12.5. Procedure

(a) In order for an Indemnified Party to be entitled to any indemnification provided for under this Agreement, such Indemnified Party will, within a reasonable period of time following the discovery of the matters giving rise to any Losses, notify the indemnifying party under this Article XII (the “Indemnifying Party”) in writing of its claim for indemnification for such Losses, specifying in reasonable detail the nature of such Losses and the amount of the liability estimated to accrue therefrom; provided, however, that failure to give such notification will not affect the indemnification provided hereunder, except to the extent the Indemnifying Party will have been prejudiced as a result of such failure. Thereafter, the Indemnified Party will deliver to the Indemnifying Party, within a reasonable period of time after the Indemnified Party’s receipt of such request, all information and documentation reasonably requested by the Indemnifying Party with respect to such Losses.

(b) If the indemnification sought pursuant hereto involves a claim made by a third party against the Indemnified Party (a “Third Party Claim”), the Indemnifying Party will be entitled to assume the defense of such Third Party Claim at its own expense with counsel selected by the Indemnifying Party. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof. If the Indemnifying Party assumes such defense, the Indemnified Party will have the right to participate in the defense thereof and to employ counsel, at its own expense (which expense shall not constitute a Loss), separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party will control such defense. The Indemnifying Party will be liable for the reasonable and documented fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnifying Party has not assumed the defense thereof (other than during any period in which the Indemnified Party will have failed to give notice of the Third Party Claim as provided above). If the Indemnifying Party chooses to defend or prosecute a Third Party Claim, all of the parties hereto will cooperate in the defense or prosecution.
thereof. Such cooperation will include the retention and (upon the Indemnifying Party’s request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. If the Indemnifying Party chooses to defend or prosecute any Third Party Claim, it will defend or prosecute it diligently and the Indemnifying Party will obtain the prior written consent of the Indemnified Party (not to be unreasonably withheld) before entering into any settlement, compromise or discharge of such Third Party Claim if (i) such settlement, compromise or discharge does not relate solely to monetary damages, (ii) such settlement, compromise or discharge does not expressly unconditionally and completely release the Indemnified Party from all Losses and liabilities with respect to such Third Party Claim and (iii) the Indemnifying Party is not directly paying the full amount of the Losses in connection with such Third Party Claim. Whether or not the Indemnifying Party will have assumed the defense of a Third Party Claim, the Indemnified Party will not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the Indemnifying Party’s prior written consent (not to be unreasonably withheld).

(c) If an indemnification payment is received by Buyer Indemnified Party or Seller Indemnified Party, as applicable, and such Indemnified Party later receives insurance proceeds in respect of the related Losses or other recoveries under section 12.4(a) (ii) above that were not previously credited against such indemnification payment when made, such Indemnified Party shall promptly pay to the Indemnifying Party, an amount equal to the lesser of (A) such insurance proceeds or other recoveries, with respect to such Losses and (B) the net indemnification payment previously paid by such Indemnifying Party with respect to such Losses. Each Indemnified Party shall use reasonable and good faith efforts to collect amounts available under available insurance coverage and promptly and diligently pursue such claims relating to any Losses for which it is seeking indemnification.

(d) Each Indemnified Party shall take, and shall cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would reasonably be expected to, or such Indemnified Party believes does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss; provided, that such failure to use such efforts in accordance with the foregoing shall not relieve the Indemnifying Party of its indemnification obligations under this Article XII except and only to the extent that the Indemnifying Party is prejudiced thereby.

ARTICLE XIII.

GENERAL PROVISIONS

SECTION 13.1. Expenses

Except as otherwise specified in this Agreement and the Supply Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the party incurring such costs and expenses, whether or not the Closing will have occurred. For the avoidance of doubt, Buyer will not have any obligation to make any payment in respect of the initial Firm Order (as defined in the Supply Agreement) if this Agreement is terminated prior to the Closing Date.

- 37 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 13.2.  Further Assurances and Actions

Each of the parties hereto, upon the request of the other party hereto, whether before or after the Closing and without further consideration, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably necessary to effect complete consummation of the transactions contemplated by this Agreement. Seller and Buyer agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to consummate or implement expeditiously the transactions contemplated by this Agreement. From and after the Closing, each of the parties shall cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and do, or cause to be done, and assist and cooperate with the other parties in doing, all things reasonably requested by the other party hereto with respect to the transactions contemplated hereby.

SECTION 13.3.  Notices

All notices and other communications required or permitted to be given or made pursuant to this Agreement shall be in writing signed by the sender and shall be deemed duly given (a) on the date delivered, if personally delivered, (b) on the date sent by telecopier with automatic confirmation by the transmitting machine showing the proper number of pages were transmitted without error, (c) on the Business Day after being sent by Federal Express or another recognized overnight mail service which utilizes a written form of receipt for next day or next business day delivery or (d) two (2) Business Days after mailing, if mailed by U.S. postage-prepaid certified or registered mail, return receipt requested, in each case addressed to the applicable party at the address set forth below; provided that a party may change its address for receiving notice by the proper giving of notice hereunder:

if to Seller, to:

Teva Pharmaceutical Industries Ltd.
5 Basel Street
P.O.B. 3190
Petach Tikvah, Israel
Attention: Dror Bashan
Email: Dror.Bashan@teva.co.il

and

Teva Pharmaceuticals USA, Inc.
425 Privet Road
PO Box 1005
Horsham, PA 19044 U.S.A.
Attention: General Counsel
Fax: (215) 293-6499

With a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue

- 38 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 13.4. **Headings**

The table of contents and headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

SECTION 13.5. **Severability**
If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced under any law or public policy, all other terms and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

SECTION 13.6. Counterparts

This Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto, it being understood that all parties hereto need not sign the same counterpart.

SECTION 13.7. Entire Agreement; No Third-Party Beneficiaries

This Agreement and the Exhibits and Schedules hereto constitute the entire agreement and supersede all prior agreements and understandings, both written and oral (including any letter of intent, memorandum of understanding or term sheet), between or among the parties hereto with respect to the subject matter hereof. Except as specifically provided herein, this Agreement is not intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

SECTION 13.8. Governing Law

This Agreement and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the laws of the State of New York, U.S.A. applicable to agreements made and to be performed entirely in such State.

SECTION 13.9. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL

(a) Buyer and Seller agree to irrevocably submit to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A., for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each party agrees to commence any such action, suit or proceeding either in the United States District Court for the Southern District of New York, U.S.A. or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail or recognized international courier service to such party’s respective address set forth in Section 13.3 of this Agreement shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction in this Agreement. Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A.
THE BUYER AND THE SELLER HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE PARTIES TO THIS AGREEMENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 13.10. Specific Performance

The parties hereto agree that irreparable damage may occur in the event any provision of this Agreement were not performed in accordance with its terms and that the parties hereto will be entitled to seek specific performance of such terms, in addition to any other remedy at law or in equity, without the necessity of demonstrating the inadequacy of monetary damages and without the posting of a bond.

SECTION 13.11. Intentionally Omitted

SECTION 13.12. Publicity

Neither party will make any public announcement concerning, or otherwise publicly disclose, any information with respect to the transactions contemplated by this Agreement or any of the terms and conditions hereof without the prior written consent of the other parties hereto, which consent will not be unreasonably withheld. Notwithstanding the foregoing, either party may make any public disclosure concerning the transactions contemplated hereby that in the view of such party’s counsel may be required by Law or the rules of any stock exchange on which such party’s or its Affiliates’ securities trade; provided, however, the party making such disclosure will provide the non-disclosing party with a copy of the intended disclosure reasonably, and to the extent practicable, prior to public dissemination, and the parties hereto will coordinate with one another regarding the timing, form and content of such disclosure.

SECTION 13.13. Assignment

Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that after the Closing Date either party may assign its rights and obligations under this Agreement (including without limitation the Licenses and the covenant not to sue contained in Section 2.5), without the prior written consent of the other party, to an Affiliate or to a successor of the assigning party by reason of merger, sale of all or substantially all of its assets or portion of its business which relates to a Product or any number of the Products, or any similar transaction. Any permitted assignee or successor-in-interest will assume all obligations of its assignor under this Agreement. No assignment will relieve either party of its responsibility for the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
performance of any obligation. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

[signature page follows]

- 42 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be signed by their respective representatives thereunto duly authorized, all as of the date first written above.

TEVA PHARMACEUTICAL
INDUSTRIES LTD.

By: /s/ Dror Bashan
Name: Dror Bashan
Title: SVP, Head of M&A, Global BD

By: /s/ Eyal Desheh
Name: Eyal Desheh
Title: Executive Vice President, Chief Financial Officer

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson
Name: G. Frederick Wilkinson
Title: President, Chief Executive Officer
AMENDMENT NO. 1
TO THE
ASSET PURCHASE AGREEMENT

THIS AMENDMENT NO. 1 TO THE ASSET PURCHASE AGREEMENT (this “Amendment”) is dated as of June 30, 2016, by and between Impax Laboratories, Inc., a Delaware corporation (“Buyer”) and Teva Pharmaceutical Industries Ltd., an Israeli corporation, acting directly or through its Affiliates (“Seller”).

WITNESSETH:

WHEREAS, Buyer and Seller executed that certain Asset Purchase Agreement, dated June 20, 2016 (as amended, restated, waived or otherwise modified, the “Agreement”); and

WHEREAS, the parties hereto have agreed to amend certain terms of the Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Any capitalized term used in this Amendment shall have the meaning designated for the capitalized term in the Agreement unless otherwise defined in this Amendment. The term “Agreement” used in the Agreement shall hereafter refer to the Agreement, as amended by this Amendment.

2. Amendment of the Agreement. The Agreement is hereby amended as follows (with deleted text shown as stricken and new text shown as double underlined):

   (a) Section 9.4(b) of the Agreement is hereby amended and restated in its entirety to read as follows:

   “Each of Buyer and Seller shall use reasonable best efforts to obtain from the FTC preliminary approval for Buyer as the purchaser of the Transferred Assets. Each of Buyer and Seller agrees to cooperate and use its reasonable best efforts vigorously to contest and resist any third party action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order (whether temporary, preliminary or permanent) that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement, including by vigorously pursuing all available avenues of administrative and judicial appeal and all available legislative action; provided, however, that this last sentence of Section 9.4(b) shall not apply to any action by the FTC.”

3. Miscellaneous.

   (a) Effectiveness of Amendment. This Amendment shall become effective upon the date hereof. In the event of any inconsistency or conflict between the
Agreement and this Amendment, the terms, conditions and provisions of this Amendment shall govern and control.

(b) **General Provisions.** Article XIII of the Agreement shall apply to this Amendment, *mutatis mutandis*.

* * * * *
IN WITNESS WHEREOF, this Amendment has been executed and delivered by the parties hereto effective as of the date first above written.

TEVA PHARMACEUTICAL INDUSTRIES LTD.

By: /s/ Dror Bashan

Name: Dror Bashan

Title: SVP, Head of M&A, Global BD

By: /s/ Eyal Desheh

Name: Eyal Desheh

Title: Executive Vice President, Chief Financial Officer

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson

Name: G. Frederick Wilkinson

Title: President, Chief Executive Officer

[Signature Page to Impax-Teva Asset Purchase Agreement Amendment]
ASSET PURCHASE AGREEMENT
AMONG
ACTAVIS ELIZABETH LLC
ACTAVIS GROUP PTC EHF
ACTAVIS HOLDCO US, INC.
ACTAVIS LLC
ACTAVIS MID ATLANTIC LLC
ACTAVIS PHARMA, INC.
ACTAVIS SOUTH ATLANTIC LLC
ANDRX LLC
BREATHE LTD.
THE RUGBY GROUP, INC.
WATSON LABORATORIES, INC.
AND
IMPAX LABORATORIES, INC.
DATED AS OF
JUNE 20, 2016
TABLE OF CONTENTS

ARTICLE I. DEFINITIONS 6

SECTION 1.1. Definitions 6
SECTION 1.2. Interpretation 13
SECTION 1.3. Currency 13
SECTION 1.4. Incorporation by Reference and Supremacy of FTC Order 13

ARTICLE II. SALE AND PURCHASE OF TRANSFERRED ASSETS 14

SECTION 2.1. Purchase and Sale 14
SECTION 2.2. Transferred Assets 14
SECTION 2.3. Assumption of Certain Liabilities and Obligations 15
SECTION 2.4. License to Certain Product Technology; License to Use Certain Information 16
SECTION 2.5. Covenant Not to Sue. 16
SECTION 2.6. Nonassignable Assets. 17

ARTICLE III. PURCHASE PRICE 18

SECTION 3.1. Purchase Price 18
SECTION 3.2. Allocation of Purchase Price 18
SECTION 3.3. Transfer Taxes 18

ARTICLE IV. THE CLOSING 18

SECTION 4.1. Closing Date 18
SECTION 4.2. Transactions to Be Effected at the Closing 18

ARTICLE V. REPRESENTATIONS AND WARRANTIES OF SELLERS 19

SECTION 5.1. Organization; Good Standing 19
SECTION 5.2. Authority; Execution and Delivery 19
SECTION 5.3. Consents; No Violation, Etc. 19
SECTION 5.4. Title to Transferred Assets 20
SECTION 5.5. Litigation 20
SECTION 5.6. Regulatory Issues 21
SECTION 5.7. No Brokers 21
SECTION 5.8. Exclusive Representations and Warranties 21
SECTION 5.9. Regulatory Commitments 21
SECTION 5.10. Contracts to be Assumed; Customers 22
ARTICLE X. CONDITIONS PRECEDENT

SECTION 10.1. Conditions to Each Party’s Obligations
SECTION 10.2. Conditions to Obligations of Buyer
SECTION 10.3. Conditions to the Obligations of Seller

ARTICLE XI. TERMINATION, AMENDMENT AND WAIVER

SECTION 11.1. Termination
SECTION 11.2. Amendments and Waivers
SECTION 11.3. Rescission
SECTION 11.4. Modification

ARTICLE XII. INDEMNIFICATION

SECTION 12.1. Survival
SECTION 12.2. Indemnification by Sellers
SECTION 12.3. Indemnification by Buyer
SECTION 12.4. Limitations
SECTION 12.5. Procedure

ARTICLE XIII. GENERAL PROVISIONS

SECTION 13.1. Expenses
SECTION 13.2. Further Assurances and Actions
SECTION 13.3. Notices
SECTION 13.4. Headings
SECTION 13.5. Severability
SECTION 13.6. Counterparts
SECTION 13.7. Entire Agreement; No Third-Party Beneficiaries
SECTION 13.8. Governing Law
SECTION 13.9. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL
SECTION 13.10. Specific Performance
SECTION 13.11. Allergan
SECTION 13.12. Publicity
SECTION 13.13. Assignment

Exhibit A Assignment and Assumption Agreement
Exhibit B Bill of Sale
Exhibit C Products
Exhibit D Supply Agreement
Exhibit E Form of Customer Notice
Exhibit F CMO Letter Agreement

Appendix I Proposed Order/Final Order
ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of June 20, 2016 (the “Effective Date”), is made by and among Impax Laboratories, Inc., a Delaware corporation (“Buyer”), Actavis Elizabeth LLC, a Delaware limited liability company (“Actavis Elizabeth”), Actavis Group PTC Ehf., an Iceland einkahlutafelag (“Actavis PTC”), Actavis Holdco US, Inc., a Delaware corporation (“Actavis Holdco”), Actavis LLC, a Delaware limited liability company (“Actavis LLC”), Actavis Mid Atlantic LLC, a Delaware limited liability company (“Actavis Mid Atlantic”), Actavis Pharma, Inc., a Delaware corporation (“Actavis Pharma”), Actavis South Atlantic LLC, a Delaware limited liability company (“Actavis South Atlantic”), Andrx LLC, a Delaware limited liability company (“Andrx”), Breath Ltd., a United Kingdom private limited company (“Breath”), The Rugby Group, Inc., a New York corporation (“Rugby”), and Watson Laboratories, Inc., a Nevada corporation (“Watson” and, together with Actavis Elizabeth, Actavis PTC, Actavis Holdco, Actavis LLC, Actavis Mid Atlantic, Actavis Pharma, Actavis South Atlantic, Andrx, Breath and Rugby, each a “Seller” and, collectively, the “Sellers”).

WHEREAS, the FTC staff has raised the concern that the proposed acquisition (the “Proposed Allergan Transaction”) of certain businesses and assets of Allergan plc (“Allergan”) by Teva Pharmaceutical Industries Ltd. (“Teva”), pursuant to the Allergan Agreement, is likely to produce anticompetitive effects in the alleged relevant product market(s) in the United States for the generic pharmaceutical products listed on Exhibit C (as such products are more specifically identified in this Agreement), which would not be in the public interest, including, but not limited to, by eliminating competition between Teva and Allergan;

WHEREAS, in order to resolve the concerns raised by the FTC staff in these alleged product markets in the United States, Teva has agreed to enter into this Agreement with Buyer to divest certain assets related to these products to Buyer, and to permit Buyer to replace the lost competition by manufacturing, marketing and selling the generic products referred to above into the respective alleged product markets;

WHEREAS, the FTC has or is about to issue an Order governing the scope, nature, extent and requirements of this Agreement;

WHEREAS, Sellers and/or their respective Affiliates sell the Products (as defined herein) commercially and/or have a Product ANDA (as defined herein) filed with the FDA or commercialization rights with respect to the Products;

WHEREAS, upon and subject to the Allergan Closing, Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers, certain Transferred Assets (as defined herein) related to the Products within the Territory (as defined herein), all upon the terms and subject to the conditions hereinafter set forth; and

WHEREAS, concurrently with the execution of this Agreement, a certain Person who will be an Affiliate of Sellers as of the Closing entered into an asset purchase agreement with Buyer related to the Order (the “Other Acquisition Agreement”), pursuant to which such

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Affiliate of Sellers as of the Closing has agreed to sell to Buyer, and Buyer has agreed to purchase from such Affiliate of Sellers as of the Closing, certain Transferred Assets (as defined in the Other Acquisition Agreement) related to the Products (as defined in the Other Acquisition Agreement) within the Territory (as defined in the Other Acquisition Agreement), all upon the terms and conditions set forth therein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I.

DEFINITIONS

SECTION 1.1. Definitions

As used in this Agreement, the following terms have the meanings set forth below:

“Affiliate” means any Person that controls, is controlled by, or is under common control with the applicable Person. For purposes of this definition, “control” shall mean: (a) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares entitled to vote for the election of directors, or otherwise having the power to control or direct the affairs of such Person; and (b) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50)% of the equity interest or the power to direct the management and policies of such noncorporate entities.

“Agreement” has the meaning set forth in the preamble.

“Allergan” has the meaning set forth in the recitals.

“Allergan Agreement” means the Master Purchase Agreement dated as of July 26, 2015 by and between Allergan and Teva, as it may be amended from time to time.

“Allergan Closing” means the closing of the Proposed Allergan Transaction pursuant to the Allergan Agreement.

“Application(s)” means all of the following: NDA, ANDA, “Supplemental New Drug Application”, or “Marketing Authorization Application”, the applications for a Product filed or to be filed with the FDA pursuant to 21 C.F.R. Part 314 et seq., and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto. “Application” also includes an “Investigational New Drug Application” filed or to be filed with the FDA pursuant to 21 C.F.R. Part 312, and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“**Assigned Contracts**” means the Contracts set forth on Schedule 2.2(a)(vii), but solely with respect to the applicable Product, or Contracts or arrangements conferring substantially equivalent rights with respect to the applicable Products.

“**Assigned Patents**” means the patents set forth on Schedule 2.2(a)(vi) hereto and any related registrations or applications for registrations thereof.

“**Assignment and Assumption Agreement**” means an assignment and assumption agreement to be executed and delivered by Buyer and the applicable Seller(s) at Closing, substantially in the form of Exhibit A.

“**Assumed Liabilities**” has the meaning set forth in Section 2.3(a).

“**Bill of Sale**” means a bill of sale to be executed and delivered by the applicable Seller(s) to Buyer at Closing, substantially in the form of Exhibit B.

“**Budesonide Litigation Bond**” means any payments or recovery, or rights or claims for payment or recovery pursuant to the bonds, costs and fees in connection with *AstraZeneca LP v. Apotex, Inc.*, Nos. 09-1381, 13-1312, 15-1335 (Fed. Cir. Nov. 1, 2010).

“**Business Day**” means any day other than a Friday, Saturday, Sunday or other day on which banks in the U.S. or Israel are permitted or required to close by Law.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer Indemnified Parties**” has the meaning set forth in Section 12.2.

“**Buyer NDC Numbers**” has the meaning set forth in Section 8.6.

“**Buyer Officer’s Certificate**” means a certificate, dated the Closing Date, duly executed by an authorized officer of Buyer, reasonably satisfactory in form to the Sellers, as to the satisfaction of the conditions set forth in Sections 10.3(a) and (b).

“**Buyer Returns**” has the meaning set forth in Section 9.1(a).

“**Cap**” has the meaning set forth in Section 12.4(a).

“**Catalent**” means Catalent Pharma Solutions, LLC.

“**Closing**” and “**Closing Date**” have the respective meanings set forth in Section 4.1.

“**CMO Letter Agreement**” means that certain Letter Agreement Relating to the Supply and Purchase of Certain CMO Products, dated as of the date hereof, by and among Buyer and Sellers and attached hereto as Exhibit F.
“Contracts” means contracts, leases, licenses, indentures, agreements, purchase orders and all other legally binding arrangements, whether in existence on the date hereof or subsequently entered into, including all amendments thereto.

“Customer List” has the meaning set forth in Section 5.10(c) hereof.

“Customer Notice” means the written notice to be sent to Customers in accordance with Section 7.6, in substantially the form attached hereto as Exhibit E.

“Customers” has the meaning set forth in Section 7.6(d).

“Deductible” has the meaning set forth in Section 12.4(a).

“Direct Cost” means the cost of (i) direct labor and direct material used and (ii) all other reasonable and documented out of pocket expenses, in each case, to provide the relevant assistance or service.

“Disclosing Party” has the meaning set forth in Section 8.3.

“Effective Date” has the meaning set forth in the preamble.

“Encumbrance” means, with respect to any asset, any imperfection of title, mortgage, charge, lien, security interest, easement, right of way, pledge or encumbrance of any nature whatsoever.

“Excluded Assets” has the meaning set forth in Section 2.2(b).

“Excluded Liabilities” has the meaning set forth in Section 2.3(b).

“Exhibits” means, collectively, the Exhibits referred to throughout this Agreement.

“Expiration Date” has the meaning set forth in Section 12.1.

“FDA” means the U.S. Food and Drug Administration.

“Finished Goods” means each of the Products, respectively, packaged, labeled and ready for distribution and sale in finished form.

“FTC” means the U.S. Federal Trade Commission.

“GAAP” means United States generally accepted accounting principles.

“Governmental Entity” means any nation or government or any court, administrative agency or commission or other governmental authority, body or instrumentality, whether U.S. (federal, state, country, municipal or other) or non-U.S.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“**Governmental Rule**” means any Law, judgment, order, decree, statute, ordinance, rule or regulation enacted, issued or promulgated by any Governmental Entity.

“**Indemnified Party**” has the meaning set forth in Section 12.3.

“**Indemnifying Party**” has the meaning set forth in Section 12.5(a).

“**Knowledge**” of (i) each Seller means all such facts, circumstances or other information, of which Daniel Motto, Sr. (SVP, Business Development & Portfolio Management) and Eric Schumacher (VP Business Development) are actually aware and (ii) Buyer means all such facts, circumstances or other information, of which Frederick Wilkinson (President and Chief Executive Officer), Bryan Reasons (Senior Vice President, Finance and Chief Financial Officer), Mark Schlossberg (Senior Vice President and General Counsel) and Brandon Smith (Senior Vice President, Corporate Development and Strategy) are actually aware.

“**Law**” means each federal, state, provincial, municipal, local, or foreign law, statute, ordinance, order, determination, judgment, common law, code, rule, official standard, or regulation, enacted, enforced, entered, promulgated, or issued by any Governmental Entity.

“**Liabilities**” means any and all debts, liabilities and obligations of any kind, nature, character or description, whether accrued or fixed, absolute or contingent, matured or unmatured, or known or unknown, including those arising under any Governmental Rule or action and those arising under any Contract, arrangement, commitment or undertaking, or otherwise.

“**License**” has the meaning set forth in Section 2.4.

“**Losses**” means any and all damages, losses, Taxes, Liabilities, claims, judgments, penalties, payments, interest, costs and expenses (including reasonable and documented legal fees, accountants’ fees and expert witnesses’ fees and expenses incurred in investigating and/or prosecuting any claim for indemnification).

“**Material Adverse Effect**” means an effect which has had, or would reasonably be expected to have, a material adverse effect solely on the Transferred Assets or Product Technology taken as a whole, but will not include (a) any adverse change or effect due to changes in conditions generally affecting (i) the healthcare industry or (ii) the United States economy as a whole, or (b) any change or adverse effect caused by, or relating to (i) the commencement, occurrence, continuation, or intensification of any national or international political conditions, including the engagement by the United States or any other country or group in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment, or personnel of the United States or any other country or group, (ii) financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (iii) any changes in Law or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof, (iv) the occurrence,
continuation or intensification of any earthquakes, hurricanes, pandemics, or other natural disasters, or any other force majeure event, whether or not caused by any Person, or any national or international calamity or crisis, (v) compliance with the terms of, or the taking of any action required by, this Agreement or the transactions contemplated hereby (including any action reasonably required by, or condition or other term reasonably imposed by, the FTC in connection with the Order) or (vi) the execution, announcement or pendency of this Agreement and the transactions contemplated by this Agreement; provided, however, that the changes set forth in the foregoing clauses (a)(i), (b)(iii) and (b)(iv) shall be taken into account in determining whether a “Material Adverse Effect” has occurred to the extent (and only to the extent) such changes have a disproportionate impact on the Transferred Assets or the Products, in each case, when compared to similar companies or products in the pharmaceutical industry.

“Medicaid Reimbursements and Rebates” means all discounts, rebates, reimbursements or other payments required by Governmental Rule to be made under Medicaid, Medicare or other governmental special medical assistance programs.

“NDC” means a national drug code as issued by the FDA.

“NDC Numbers” means the NDC Number for each of the Products, respectively.

“Net Price” means the price per unit of Product on a SKU-level basis charged by the applicable Seller as of [****], net of all discounts, rebates or promotions.

“Order” means the Decision and Order relating to the Products issued by the FTC in the proceeding captioned In the Matter of Teva Pharmaceutical Industries Ltd., a corporation.

“Other Acquisition Agreement” has the meaning set forth in the recitals.

“Permitted Encumbrances” means (a) any minor imperfections of title or similar Encumbrance that do not, and would not reasonably be expected to, individually or in the aggregate, materially impair the value or materially interfere with the use of, the Transferred Assets, the Product Technology, (b) Encumbrances for Taxes that are not yet due and payable, (c) Encumbrances that will be released at Closing, (d) statutory Encumbrances arising out of operation of Law with respect to a Liability incurred in the ordinary course of business and which is not delinquent, (e) Encumbrances incurred as a result of any facts or circumstances related to Buyer or its Affiliates and (f) Encumbrances set forth on Schedule 1.1.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, trust, business association, organization, Governmental Entity or other entity.

“Product ANDA” means, for each applicable Product, respectively, the Abbreviated New Drug Application (as defined in the United States Food, Drug, and Cosmetic Act) identified on Exhibit C, and all amendments and supplements thereto, that have been filed with the FDA seeking authorization and approval to manufacture, package, ship and sell such Products, as more fully defined in 21 C.F.R. Part 314 et seq.
“Product Approval(s)” means any approvals, registrations, permits, licenses, consents, authorizations, and other approvals, and pending applications and requests therefor, required by applicable Governmental Entities related to the research, development, manufacture, distribution, finishing, packaging, marketing, sale, storage, or transport of a Product within the United States of America, and includes, without limitation, all approvals, registrations, licenses, or authorizations granted in connection with any Application related to that Product.

“Products” means the Products listed on Exhibit C hereto to be purchased pursuant to this Agreement.

“Product Scientific and Regulatory Material” means, with respect to each Seller, all technological, scientific, development, chemical, biological, pharmacological, toxicological, regulatory, clinical trial materials, product safety related information (including periodic safety update reports and adverse event database information), written correspondence with any Governmental Entity and other data, files, records and other information (in any form or medium, wherever located) similar to the foregoing, in each case to the extent solely related to the Products that are owned by such Seller and in its possession or control.

“Product Technology” means, with respect to each Seller, the following information owned by or to the extent licensed to such Seller, as in existence and in the possession of such Seller as of the Closing Date: the manufacturing technology, proprietary or confidential information, processes, techniques, protocols, methods, improvements and know-how that are necessary to manufacture the Products in accordance with the current applicable Product ANDA, as the case may be, including, but not limited to, the manufacturing process approved in the applicable Product ANDAs, specifications and test methods, raw material, packaging, stability and other applicable specifications, manufacturing and packaging instructions, master formula, validation reports to the extent available, stability data, analytical methods, records of complaints, annual product reviews to the extent available, and other master documents necessary for the manufacture, control and release of the Products as conducted by, or on behalf of, such Seller or any of its Affiliates before the Effective Date. The Product Technology includes without limitation the rights owned or to the extent controlled by such Seller under any patent issued in or subject to a pending application in the Territory as of the Closing Date, and any rights under any patent or patent application outside of the Territory solely to the extent necessary to manufacture the Products outside the Territory for importation to and sale in the Territory. For purposes of this definition, Allergan and its Affiliates will not be deemed to be Affiliates of Seller.

“Proposed Allergan Transaction” has the meaning set forth in the recitals.

“Purchase Price” has the meaning set forth in Section 3.1.

“QPSI” means Quality Packaging Specialists International, LLC.

“Quality Agreement” means the Quality Agreement to be executed by Buyer and Sellers pursuant to the Supply Agreement.
“Receiving Party” has the meaning set forth in Section 8.3.

“Schedules” means, collectively, the Schedules referred to throughout this Agreement.

“SEC Waiver Letter” has the meaning set forth in Section 9.7.

“Seller” or “Sellers” has the meaning set forth in the preamble.

“Seller Indemnified Parties” has the meaning set forth in Section 12.3.

“Seller Officer’s Certificate” means a certificate, dated the Closing Date, duly executed by an authorized officer of Sellers, reasonably satisfactory in form to Buyer, as to the satisfaction of the conditions set forth in Sections 10.2(a), (b) and (c).

“Seller Payments” has the meaning set forth in Section 9.1(c).

“Seller Taxes” means all (i) Taxes arising out of, relating to or otherwise in respect of the Transferred Assets that are attributable to taxable periods, or portions thereof, ending on or prior to the Closing Date, provided that, in the case of any taxable period beginning on or prior to and ending after the Closing Date (a “Straddle Period”), Taxes assessed on an annual or other periodic basis allocated to the portion of the taxable period ending on or prior to the Closing Date shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the taxable period ending on or prior to the Closing Date and the denominator of which is the number of days in the entire Straddle Period; and (ii) Taxes imposed on, or incurred by, Sellers or any of their Affiliates for which Sellers or any of their Affiliates are liable that do not arise out of, relate to or otherwise are not in respect of the Transferred Assets.

“SKU” means a stock keeping unit.

“Specifications” has the meaning set forth in the Supply Agreement.

“Supply Agreement” means the Supply Agreement to be executed by Sellers and Buyer, in substantially the form attached hereto as Exhibit D.

“Tax(es)” means all Federal, state, local and foreign taxes, customs, duties, governmental fees and assessments, including all interest, penalties and additions with respect thereto.

“Tax Return” means any report, return, election, notice, estimate, declaration, information statement and other forms and documents (including all schedules, exhibits and other attachments thereto) relating to and filed or required to be filed with a taxing authority in connection with any Taxes (including estimated Taxes).

“Territory” means the United States of America and its territories, protectorates and possessions, including Puerto Rico.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Teva” has the meaning set forth in the recitals.

“Third Party Claim” has the meaning set forth in Section 12.5(b).

“Transferred Assets” has the meaning set forth in Section 2.2(a).

“Transition Products” has the meaning set forth in Appendix III.

“U.S.” or “U.S.A.” means the United States of America.

SECTION 1.2. Interpretation

When used in this Agreement, the words “include”, “includes” and “including” will be deemed to be followed by the words “without limitation.” Any terms defined in the singular will have a comparable meaning when used in the plural, and vice-versa.

SECTION 1.3. Currency

All currency amounts referred to in this Agreement are in U.S. Dollars, unless otherwise specified.

SECTION 1.4. Incorporation by Reference and Supremacy of FTC Order

(a) Incorporation of FTC Order. The parties hereby agree and acknowledge that the terms and provisions of the Order of the FTC shall govern this Agreement. A copy of the Order proposed as of the date hereof is attached as Appendix I, and upon issuance by the FTC, the final Order shall replace the currently proposed Order as Appendix I attached hereto without any other action by the parties hereto. The terms and provisions of the Order that pertain to this Agreement are hereby deemed incorporated by reference into this Agreement.

(b) Supremacy of FTC Order. To the extent that any term or provision of this Agreement conflicts with any corresponding term or provision of the Order, the parties hereby agree that the terms or provisions of the Order shall control the rights and obligations of the parties.

(c) Publicity of FTC Order. Buyer acknowledges that the Order will be publicly available and will include information regarding the Products, the Buyer and certain information regarding this Agreement and the Ancillary Agreements.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
ARTICLE II.

SALE AND PURCHASE OF TRANSFERRED ASSETS

SECTION 2.1. Purchase and Sale

Upon the terms and subject to the conditions of this Agreement, on the Closing Date, each Seller will sell, assign, transfer, convey and deliver to Buyer, and Buyer will purchase, acquire and accept, all right, title and interest, within the Territory, of such Seller in, to and under the Transferred Assets free and clear of all Encumbrances other than Permitted Encumbrances.

SECTION 2.2. Transferred Assets

(a) The term “Transferred Assets” means, with respect to each Seller, the following assets of such Seller, as the same exist on the Closing Date, that relate solely and exclusively to the Products (and for the avoidance of doubt, excluding the Excluded Assets):

(i) the Product ANDAs;
(ii) any correspondence with the FDA in such Seller’s possession or control with respect to the Product ANDAs;
(iii) annual and periodic reports relating to the Product ANDAs which have been filed by or on behalf of such Seller with the FDA, and adverse event reports pertaining to the Products, in each case as are in such Seller’s possession or control;
(iv) the quantity and delivery terms in all outstanding customer purchase orders for the Products;
(v) the Product Scientific and Regulatory Material;
(vi) the Assigned Patents;
(vii) the Assigned Contracts together with any rights under such Assigned Contracts relating to any quantities of Products manufactured by third party manufacturers and sold to Buyer by any of the Sellers prior to or after the Closing Date in accordance with the CMO Letter Agreement;
(viii) all of such Seller’s rights, title and interests to any active pharmaceutical ingredients relating to Products held by a contract manufacturer or located at a contract manufacturer’s premises;
(ix) all of such Seller’s rights, title and interests in the containers used to transport Budesonide (generic Pulmicort);

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(i) all of such Seller’s rights, title and interests to any work-in-progress relating to Dexmethylphenidate in the custody of either Catalent or QPSI (including such work-in-progress in transit between Catalent and QPSI);

(ii) all of such Seller’s rights, title and interest to any components and other raw materials (including packaging and labeling materials) in the custody of QPSI for use in connection with Dexmethylphenidate; and

(iii) any other assets belonging to such Seller that are required to be transferred pursuant to the Order.

(b) Sellers and Buyer expressly agree and acknowledge that the Transferred Assets will not include any assets of any kind, nature, character or description (whether real personal or mixed, whether tangible or intangible, whether absolute, accrued, contingent, fixed or otherwise, and wherever situated) that are not expressly included within the definition of Transferred Assets (the “Excluded Assets”). Excluded Assets include, without limitation, the any refund of Seller Taxes, and all trademarks, and trade names not specifically included in the Transferred Assets, the Budesonide Litigation Bond and all brand names, logotypes, symbols, service marks, and trade dress, and any registrations or applications for registrations of any of the foregoing.

(c) Buyer acknowledges and agrees that Sellers may retain for archival purposes and for purposes of complying with the Supply Agreement, applicable law and for legal and regulatory purposes as sellers of pharmaceutical products, one copy of all or any part of the documentation that Sellers deliver to Buyer pursuant to Section 2.2(a). The copies will be retained by Sellers’ respective legal counsel and Sellers agree to treat such copies as confidential information (in accordance with Section 8.3 hereof).

SECTION 2.3. Assumption of Certain Liabilities and Obligations

(a) Buyer will assume, be responsible for and pay, perform and/or otherwise discharge when due those Liabilities (including any Liabilities arising in respect of Taxes) directly arising out of or in connection with or directly related to (x) the Transferred Assets, the use thereof, or the use of the Product Technology by or on behalf of Buyer or its Affiliates or their respective agents or assignees on or after the Closing Date and (y) the marketing, sale or use of the Products by or on behalf of Buyer or its Affiliates or their respective agents or assignees on or after the Closing Date; provided that, for the avoidance of doubt, such Assumed Liabilities shall include: (i) Liabilities arising from any patent infringement claim or lawsuit brought by any third party, the FDA or any other Governmental Entity, in all cases only to the extent that they relate to Product sold on or after the Closing Date; (ii) Liabilities arising from any FDA or any other Governmental Entity action or notification only to the extent that such Liabilities relate to Product sold by or on behalf of Buyer or its Affiliates; (iii) Liabilities arising from any product liability claims relating to Product sold by Buyer or its agents or assignees, except to the extent the Manufacturer (as defined in the Supply Agreement) is liable for such Liabilities pursuant to the Supply Agreement on or after the Closing; (iv) Liabilities arising on or after the Closing Date from any plan of Risk Evaluation

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
and Mitigation Strategies to the extent relating to any of the Products sold by Buyer or its Affiliates, or their respective agents or assignees; and (v) subject to the terms set forth in Appendix III solely with respect to the Transition Products, state and federal Medicaid/Medicare rebates and payments, and all credits, chargebacks, rebates, discounts, allowances, incentives and similar payments in connection with the sale of Products on or after the Closing Date by or on behalf of Buyer or its Affiliates (collectively, the “Assumed Liabilities”).

(b) Except to the extent expressly included in the Assumed Liabilities, Buyer will not assume or be responsible or liable for any Liabilities of Sellers or their Affiliates, and shall in no event assume or be responsible or liable for any Liabilities arising out of or in connection with or related to (x) the Transferred Assets, the use thereof or the use of the Product Technology, in each case, by or on behalf of Sellers or their Affiliates or their respective agents or assignees prior to the Closing Date, (y) the marketing, sale or use of the Products by or on behalf of Sellers or their Affiliates or their respective agents or assignees prior to the Closing Date or liabilities that were incurred by Sellers or their Affiliates prior to the Closing Date with respect to the Products and (z) for Seller Taxes (collectively, the “Excluded Liabilities”).

SECTION 2.4. License to Certain Product Technology; License to Use Certain Information

(a) Each Seller hereby irrevocably grants to Buyer as of the Closing Date (i) a royalty-free exclusive, perpetual license to use the Product Technology that is owned by each such Seller and presently used or held for use solely and specifically for the manufacture of the Products for sale in the Territory and not for other products of each such Seller or for sale in other territories, to market and sell Products in the Territory, and to manufacture Products for marketing and sale in the Territory, and (ii) a royalty-free, non-exclusive, perpetual license to use the Product Technology that is owned by each such Seller and used or held for use not solely and specifically for the manufacture of the Products, to market and sell Products in the Territory and to manufacture Products for marketing and sale in the Territory (the “Licenses”). Each of the Licenses includes the right to grant sublicenses.

(b) Each party may modify or improve the Product Technology. The party making such modifications or improvements shall own all right, title and interest therein.

(c) Subject to, and in accordance with, the terms set forth in Appendix III, with respect to any Transition Product, (i) each Seller agrees that Buyer may sell such Transition Product bearing such Seller’s NDC Numbers, such Seller’s or its Affiliates’ name, logo, trademark, and other information of such Sellers or its Affiliates, and (ii) each Seller hereby irrevocably grants to Buyer as of the Closing Date a royalty-free, non-exclusive license solely during the Transition Services Period (as defined in Appendix III) applicable to any Transition Product to use such Seller’s NDC Numbers, such Seller’s or its Affiliates’ name, logo, trademark and any other information of such Seller or its Affiliates contained on the labels of such Transition Products solely in connection with the sale of such Transition Products by the Buyer.

SECTION 2.5. Covenant Not to Sue.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Each of the Sellers and the Buyer hereby covenants that such party and its Affiliates will not bring any suits or claims, or cause or support any licensee or other third party to bring any suits or claims, against the other party or its Affiliates, their manufacturers and importers, or their distributors and customers or their consumers, alleging that the manufacture, use, sale, offer for sale or importation in or for the Territory of the Products, or the equivalent competing products sold by or on behalf of each such Seller in or for the Territory, infringes any patent rights or misappropriates any trade secrets owned or controlled by such party or any of its Affiliates; [****].


(a) Notwithstanding anything in this Agreement to the contrary, to the extent that the transfer or assignment to Buyer of any Transferred Asset is prohibited by any Governmental Rules or would require any authorizations, approvals, consents or waivers, and such authorizations, approvals, consents or waivers shall not have been obtained, neither this Agreement nor any document delivered pursuant hereto shall constitute a sale, assignment or transfer or an attempted assignment or transfer of such Transferred Asset if the applicable authorization, approval, consent or waiver has not been obtained by (or does not remain in full force and effect at) the Closing, unless and until such third party authorization, approval, consent or waiver is obtained, at which time such Transferred Asset shall be assumed and transferred to Buyer in accordance with the terms and conditions hereof.

(b) With respect to any such authorizations, approvals, consents, or waivers referred to in Section 2.6(a), following the Closing, the parties shall use their respective reasonable best efforts, and reasonably cooperate with each other, to obtain promptly such authorizations, approvals, consents or waivers. Pending such authorizations, approval, consents or waivers, the parties shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangements designed to provide to Buyer the benefits of use of such Transferred Assets and to Sellers the benefits or rights that they would have obtained had the Transferred Asset been conveyed to Buyer at the Closing. Once any authorization, approval, consent or waiver referred to in Section 2.6(a) is obtained following Closing, Sellers shall assign, transfer, convey and deliver such Transferred Asset to Buyer at no additional cost to Buyer (other than out of pocket fees, costs and expenses incurred by Buyer in connection with such assignment, transfer, conveyance and delivery).
ARTICLE III.

PURCHASE PRICE

SECTION 3.1. Purchase Price

The purchase price for all of the Transferred Assets will be $[****] in cash to be paid on the Closing Date (the “Purchase Price”).

SECTION 3.2. Allocation of Purchase Price

The Purchase Price will be allocated among the Transferred Assets as of the Closing Date in accordance with applicable Law and as set forth in Schedule 3.2. Each of the parties hereto agrees to report (and to cause its Affiliates to report) the transactions contemplated by this Agreement in a manner consistent with applicable Law and with the terms of this Agreement, including the allocation provided in Schedule 3.2, and agrees not to take any position inconsistent therewith in any Tax Return, in any Tax refund claim, in any litigation or otherwise.

SECTION 3.3. Transfer Taxes

All transfer, sales, value added, stamp duty and similar Taxes payable in connection with the transactions contemplated hereby will be borne by Buyer.

ARTICLE IV.

THE CLOSING

SECTION 4.1. Closing Date

The closing of the (i) sale and transfer of the Transferred Assets, and (ii) license of the Product Technology pursuant to Section 2.4 (the “Closing”) will take place at the offices of Teva at 1090 Horsham Road, North Wales, PA 19454, or at another place designated by Sellers, on the first Business Day following the date on which all of the conditions to each party’s obligations under Article X have been satisfied or (if permitted) waived, or at such other time, date and/or place as mutually agreed to by the parties hereto (such date of the Closing being hereinafter referred to as the “Closing Date”). The parties will use their reasonable best efforts to cause the Closing Date to occur on the same date as the date of the Allergan Closing.

SECTION 4.2. Transactions to Be Effectuated at the Closing

At the Closing:

(a) Sellers will deliver or cause to be delivered to Buyer each of the items referred to in Section 10.2(d), in each case appropriately executed; and

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) Buyer will deliver or cause to be delivered to Sellers (i) each of the items referred to in Section 10.3(d), in each case appropriately executed, and (ii) payment of the Purchase Price by wire transfer in immediately available funds, to the account or accounts designated in writing by Sellers to Buyer.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller hereby represents and warrants to Buyer as follows:

SECTION 5.1.  Organization; Good Standing

Such Seller is a corporation or entity duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization. Such Seller has the requisite power and authority to own and transfer all rights to the Transferred Assets of such Seller, to license the Product Technology pursuant to Section 2.4 and to carry on its business as currently conducted. Such Seller is duly qualified to conduct business as a foreign corporation and is in good standing in each jurisdiction where the nature of the business conducted by it makes such qualification necessary, except where the failure to so qualify or be in good standing would not have a Material Adverse Effect. Such Seller is a Respondent to the Order.

SECTION 5.2.  Authority; Execution and Delivery

Such Seller has the requisite corporate or similar power and authority to enter into this Agreement and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement by such Seller and the consummation of the transactions contemplated hereby and the compliance with the terms hereof will not:

(a) violate any Governmental Rule applicable to such Seller,

(b) conflict with any provision of the certificate of incorporation or by-laws (or similar organizational document) of such Seller,

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(c) except as set forth on Schedule 5.3, conflict with any contract to which such Seller is a party or by which it is otherwise bound, including any Contract related to any of the Products or result in the creation of any Encumbrance upon any of the Transferred Assets of such Seller (other than a Permitted Encumbrance),

(d) subject to the foregoing clause (c), to the Knowledge of such Seller, violate any rights of any third party; or

(e) require any approval, authorization, consent, license, exemption, filing or registration with any court, arbitrator or Governmental Entity other than approval of the FTC,

except, with respect to the foregoing clauses (a) and (c), for such violations or conflicts which would not have a Material Adverse Effect or materially interfere with such Seller’s performance of its obligations hereunder and, with respect to the foregoing clause (c), (i) for receipt of FDA approval of any Product ANDA related to a Product that has not been approved by the FDA as of the Effective Date and (ii) otherwise, for such approvals, authorizations, consents, licenses, exemptions, filings or registrations that, if not obtained or made, would not have a Material Adverse Effect or interfere with such Seller’s performance of its obligations hereunder.

SECTION 5.4. Title to Transferred Assets

Such Seller has good and valid title to all of the Transferred Assets of such Seller and the right to license the Product Technology pursuant to Section 2.4 free and clear of all Encumbrances, other than Permitted Encumbrances. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL OF THE TRANSFERRED ASSETS ARE BEING SOLD, ASSIGNED, CONVEYED OR DELIVERED (AS APPLICABLE) TO BUYER ON AN “AS IS” “WHERE IS” BASIS WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT OF THIRD PARTY RIGHTS, AND ALL SUCH WARRANTIES ARE DISCLAIMED.

SECTION 5.5. Litigation

(a) There is no material suit, claim, action, investigation or proceeding pending or, to the Knowledge of such Seller, threatened against such Seller, that relates to the Transferred Assets of such Seller, the Assumed Liabilities, the Product Technology that (i) challenges or seeks to prevent or enjoin the transactions contemplated by this Agreement, or (ii) has not been disclosed to Buyer in writing on Schedule 5.5(a) prior to the execution of this Agreement.

(b) Except as set forth on Schedule 5.5(b) hereto, during the twelve-month period ending on the Effective Date (i) such Seller has not received any written notice from any other Person challenging its ownership or rights to use any Product Technology or intellectual property relating to the Products or its right to make, sell, offer for sale or import any

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Products, (ii) there has not been any, and there are no, material suits, claims, actions, investigations or proceedings pending or, to the Knowledge of such Seller, threatened against such Seller, relating to its ownership or rights to use any Product Technology or intellectual property relating to the Products or its right to make, sell, offer for sale or import any Products and (iii) there has not been any, and there are no, product liability suits, claims, actions, investigations or proceedings of any kind, including product liability, tort or breach of contract, pending or, to the Knowledge of such Seller, threatened against such Seller, relating to the Products, the Product Technology.

SECTION 5.6. Regulatory Issues

(a) Except as may be disclosed on Schedule 5.6(a) hereto, during the twelve-month period ending on the Effective Date, (i) with respect to the Products only, such Seller has not received: (A) any FDA Form 483s or warning letters directly relating to the Products or the facilities in which the Products are manufactured; or (B) any FDA Notices of Adverse Findings with respect to the Products; and (ii) there has not been a recall or market withdrawal of any Product by such Seller, whether voluntary or involuntary.

(b) Schedule 5.6(b) hereto sets forth a true and complete list of all documents, each of which has been made available to Buyer, relating to any Product and that set forth information from the last two (2) years relating to (i) adverse drug experience information, (ii) material events and matters concerning or affecting safety and (iii) medical inquiries and complaints brought to the attention of such Seller.

SECTION 5.7. No Brokers

Except as may be disclosed on Schedule 5.7 hereto, such Seller has not entered into any agreement, arrangement or understanding with any Person or firm which will result in the obligation to pay any finder’s fee, brokerage commission or similar payment in connection with the transactions contemplated hereby.

SECTION 5.8. Exclusive Representations and Warranties

Other than the representations and warranties set forth in this Article V, such Seller is not making any other representations or warranties, express or implied, with respect to the Products or the Transferred Assets or the Product Technology or any other matter, including but not limited to any warranty of merchantability or fitness for a particular purpose or infringement of third party rights, and all such warranties are disclaimed.

SECTION 5.9. Regulatory Commitments

Such Seller has complied in all material respects with all obligations arising from or related to any commitments to any Governmental Entity involving any Products. Such Seller and its Affiliates have been since January 1, 2014 in compliance in all material respects with all Laws applicable to the Transferred Assets of such Seller and the Product Technology.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 5.10. **Contracts to be Assumed; Customers**

(a) Other than (i) the Assigned Contracts, (ii) any purchase orders or (iii) other Contracts with Customers there are no other material Contracts related to the Products.

(b) Each Contract that is a Transferred Asset of such Seller is a legal, valid and binding obligation of such Seller and is in full force and effect and, to the Knowledge of such Seller, each other party thereto, enforceable against such Seller and each other party in accordance with its terms (except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting creditors’ rights generally, and subject to the limitations imposed by general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity). Such Seller has performed all material obligations under each such Contract, has not received notice from any party claiming or alleging that such Seller has breached or is in default thereunder and such Seller is not (with or without lapse of time or notice, or both) in material breach or material default thereunder. To the Knowledge of such Seller, each other party to each such Contract is not in material breach or default thereunder.

(c) Schedule 5.10(c) hereto sets forth (i) a true and complete list of Customers as of the Effective Date (the “Customer List”) and (ii) a list of active pharmaceutical ingredients in respect of the Products, the supplier thereof and the cost of such ingredients on a per kilogram basis.

SECTION 5.11. **Inventory; Sales; and Cost.**

Schedule 5.11 provides a true and accurate description of the inventory levels in respect of such Seller and the other Sellers’ three largest wholesalers of all Products by SKU as of [****] (or subsequent month end, if available) as communicated to such Seller and the other Sellers by such wholesalers.

SECTION 5.12. **Assets.**

Except (i) as set forth in Schedule 5.12 and (ii) for those assets used pursuant to, and materials, goods and services provided under, the Supply Agreement, the Transferred Assets of such Seller, Product Technology, and the rights to be acquired under this Agreement and the Supply Agreement constitute all of the material assets used or held for use by such Seller with respect to the Transferred Assets of such Seller.

SECTION 5.13. **Absence of Certain Changes.**

(a) From July 27, 2015 through the date hereof (the “Pre-Signing Period”), such Seller has (i) conducted its business with respect to the Products and the Transferred Assets of such Seller in all material respects in the ordinary course and in substantially the same manner as conducted prior to the Pre-Signing Period and (ii) maintained sales of Products and customer inventory levels in respect thereof in accordance with past practices of such Seller prior to the Pre-Signing Period and reasonable industry standards.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) Since June 3, 2016, through the Effective Date, except as required by this Agreement or the Ancillary Agreements or
in connection with the consummation of the transaction contemplated hereby, such Seller has not taken any action (or made any
omission) that, if taken (or omitted) after the Effective Date without the consent of Buyer would constitute a material violation
of Section 7.1.

ARTICLE VI.

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to each Seller as follows:

SECTION 6.1. Buyer’s Organization; Good Standing

Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer
has all requisite corporate power and authority to carry on its business as it is currently being conducted. Buyer is duly qualified to
conduct business as a foreign corporation and is in good standing in every jurisdiction where the nature of the business conducted by
it makes such qualification necessary, except where the failure to so qualify or be in good standing would not prevent or materially
delay the consummation of the transactions contemplated hereby.

SECTION 6.2. Authority; Execution and Delivery

Buyer has the requisite corporate power and authority to enter into this Agreement and to consummate the transactions
contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation of the transactions
contemplated hereby have been duly and validly authorized. This Agreement has been duly executed and delivered by Buyer and,
assuming the due authorization, execution and delivery of this Agreement by such Seller, constitutes the legal, valid and binding
obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency,
reorganization, moratorium, fraudulent transfer and other similar laws affecting creditors’ rights generally from time to time in effect
and to general principles of equity (including concepts of materiality, reasonableness, good faith and fair dealing), regardless of
whether considered in a proceeding in equity or at law.

SECTION 6.3. Consents; No Violations, Etc.

The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and the
compliance with the terms hereof will not (i) violate any Governmental Rule applicable to Buyer, (ii) conflict with any provision of
the certificate of incorporation or by-laws of Buyer, (iii) conflict with any material contract to which Buyer is a party or by which it
is otherwise bound or (iv) require any approval, authorization, consent, license, exemption, filing or registration with any court,
arbitrator or Governmental Entity, other than approval of the FTC, except with respect to the foregoing clauses (i) and (iii), for such
violations or conflicts which would not materially interfere with Buyer’s performance of its
obligations hereunder or, with respect to the foregoing clause (iv), for the Order and such approvals, authorizations, consents, licenses, exemptions, filings or registrations which have been obtained or made or which, if not obtained or made, would not materially interfere with Buyer’s performance of its obligations hereunder.

SECTION 6.4. Litigation

There is no suit, claim, action, investigation or proceeding pending or, to the Knowledge of Buyer, threatened against Buyer or any of its Affiliates which, if adversely determined, would materially interfere with the ability of Buyer to perform its obligations hereunder or the consummation of the transactions contemplated hereby.

SECTION 6.5. Development

As of the date hereof, Buyer has not begun developing a generic version of any Product, has not filed a Product ANDA for a generic version of any Product, and does not own or have a right to distribute any product under a Product ANDA for a generic version of any Product or the corresponding NDA.

SECTION 6.6. No Brokers

Buyer has not entered into any agreement, arrangement or understanding with any Person or firm which will result in the obligation to pay any finder’s fee, brokerage commission or similar payment in connection with the transactions contemplated hereby for which such Seller could be liable.

SECTION 6.7. Availability of Funds

At the Closing, Buyer will have cash available to it that is sufficient to enable it to make payment of the Purchase Price, to satisfy all of the Assumed Liabilities and to make all other necessary payments in connection with transactions contemplated by this Agreement.

SECTION 6.8. Solvency

(a) Immediately following the Closing, and after giving effect to all of the transactions contemplated by this Agreement, Buyer and its subsidiaries, on a consolidated basis, will be Solvent. In connection with the transactions contemplated by this Agreement, Buyer is not making any transfer of property and is not incurring any Liability with the intent to hinder, delay, or defraud, either present or future creditors of Buyer.

(b) For purposes of this Agreement, “Solvency” when used with respect to Buyer or the Transferred Assets acquired by Buyer hereunder means, as applicable, that immediately following the Closing Date, (i) the amount of the Present Fair Saleable Value of its assets will, as of such date, exceed all of its known Liabilities as of such date, (ii) such Person will not have, as of such date, an unreasonably small amount of capital for the business in which it is

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
engaged or will be engaged, and (iii) such Person will be able to pay its Debts as they become absolute and mature, taking into account the timing of and amounts of cash to be received by it and the timing of and amounts of cash to be payable on or in respect of its Debts.

(c) For purposes of the definition of “Solvent”: (i) “Debt” means Liability on a Payment Right and “Payment Right” means (A) any right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured or (B) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; (ii) “Present Fair Saleable Value” means, with respect to Buyer or the Transferred Assets being acquired by Buyer hereunder, the amount that may be realized if its aggregate assets (including its goodwill) are sold as an entirety with reasonable promptness in an arm’s-length transaction under present conditions for the sale of comparable business enterprises; and (iii) the amount of any contingent Liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured Liability.

SECTION 6.9. Independent Investigation; No Warranty

(a) Buyer has conducted its own independent investigation, review, and analysis of the Transferred Assets, the Products, the Product Technology and the Assumed Liabilities, has formed an independent judgment concerning the Transferred Assets, the Products, the Product Technology and the Assumed Liabilities and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of such Seller, for such purpose.

(b) Buyer acknowledges and represents that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of such Seller set forth in this Agreement (including the related portions of the Schedules) and any certificates delivered hereunder; and (b) neither such Seller nor any other Person has made, and the Buyer is not relying on, any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding such Seller, its Affiliates, the Transferred Assets, the Products, the Product Technology or the Assumed Liabilities not expressly set forth in this Agreement (including any information, documents and materials made available to Buyer in any electronic data room or any repository of information, management presentations, or in any other form in expectation of the transactions contemplated hereby), and neither such Seller nor any other Person will have or be subject to any Liability to Buyer or any other Person resulting from the distribution to Buyer or its representatives or Buyer’s use of any such information.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 6.10. No Guarantee of FDA Approval

Buyer acknowledges and agrees that such Seller does not guarantee that FDA approval will be obtained for a Product ANDA that has not already been approved by FDA as of the date hereof and makes no representation or warranty hereunder with respect to any Product that has not already been approved by FDA as of the date hereof.

ARTICLE VII.

CERTAIN COVENANTS AND AGREEMENTS OF SELLERS

SECTION 7.1. Conduct of Business Until Closing

During the period from the date of this Agreement and continuing until the Closing, each Seller agrees that:

(a) Ordinary Course. Such Seller will conduct its business with respect to the Products and the Transferred Assets in all material respects in the ordinary course and in substantially the same manner as presently conducted and in accordance with the Order of the FTC, including, without limitation, (1) (i) maintaining sales of Products and customer inventory levels in respect thereof in accordance with past practices, historical sales data provided by such Seller to Buyer pursuant to Section 7.6 hereof and reasonable industry standards and (ii) not engaging in any special promotional activities including special discounts, and (2) by using commercially reasonable efforts to, in each case in accordance with past practices hereof and reasonably industry standards, (i) not waive any material claims or rights related to the Products or the Transferred Assets, (ii) not terminate, modify or waive any material provision of any Assigned Contract, (iii) with respect to the Products and the Transferred Assets, as applicable, not materially alter the activities and practices with respect to inventory levels of the Products maintained at the wholesale, chain, institutional or retail levels in any material respect, (iv) seek FDA approval for the Product ANDA for any pipeline Product that has not already been approved by the FDA as of the Effective Date, (v) maintain any Product ANDAs that have been approved by the FDA as of the Effective Date, (vi) comply with any Laws and FDA requests or requirements in respect of the Product ANDAs or the manufacture, distribution and sale of any of the Products pursuant to the Product ANDAs, in each case, in any material respect, (vii) maintain any Assigned Patents, (viii) maintain, in all material respects, the assets reasonably necessary to the manufacture of the Products, (ix) maintain sales efforts and sales levels consistent in all material respects with past practice, or (x) not agree, in writing or otherwise, to take or authorize the taking of any actions that conflict with the foregoing; provided, however, that nothing contained herein will be deemed to require the expenditures of any funds outside of the ordinary course of business. Such Seller will not, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), amend or modify any Assigned Contract in a manner adverse to Buyer in any material respect, including any change in any price therein.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) No Dispositions. Such Seller will not sell, lease, license, encumber, pledge or transfer, or agree to sell, lease, license encumber, pledge or transfer, any of the Transferred Assets, the Product Technology.

(c) No Settlements. Such Seller will not, without the prior written consent of Buyer (such consent not to be unreasonably withheld), (i) settle or agree to settle any claim, suit, action or other proceeding relating to the Products or the Transferred Assets brought against it by any Governmental Entity; provided, however, this Section 7.1(c) shall not apply with respect to the Order or (ii) initiate or agree to initiate any claim, suit, action or other proceeding relating to the Products or the Transferred Assets except to protect the Products or the Transferred Assets.

SECTION 7.2. Post-Closing Orders and Payments

From and after 12:01 A.M. (New York, New York, USA time) on the day immediately following the Closing Date, (i) each Seller will promptly deliver to Buyer any payments received by each such Seller from third parties for Finished Goods purchased by the third parties from Buyer on or after the Closing Date, and refer all inquiries it will receive with respect to the Products (other than with respect to Excluded Assets or Excluded Liabilities), to Buyer or its designee; and (ii) Buyer will promptly deliver to each such Seller any payments received by Buyer from third parties for Finished Goods purchased by third parties from each such Seller or its Affiliates prior to the Closing.

SECTION 7.3. Technology Transfer; Assistance with Buyer Regulatory Filings

(a) Sellers and Buyer will use commercially reasonable efforts to effect an orderly transfer of the Product Technology from Sellers to Buyer pursuant to the terms of this Agreement as soon as practicable following the Closing Date. Sellers will provide reasonable cooperation and assistance to Buyer, including, to the extent reasonably requested by Buyer, making available certain Sellers’ personnel within relevant and appropriate functions and positions during normal business hours as reasonably requested by Buyer, in connection with such transfer of the Product Technology and Buyer’s preparation of all filings required to be filed with the FDA in order to obtain the necessary approvals for the manufacture and sale of on-market Products by Buyer in or for the Territory. Each party will bear the Direct Costs incurred by it and its Affiliates in connection with its activities undertaken under this Section 7.3(a).

(b) Except with respect to Sellers’ assistance in connection with the transfer of the Product Technology as set forth above in Section 7.3(a), Buyer shall have sole responsibility for obtaining, and shall use commercially reasonable efforts to obtain, all regulatory approvals necessary for the offer, sale, importation, manufacture, distribution, marketing, promotion, import, export, pricing and reimbursement of the Products, including, without limitation, supplementing the Product ANDA to include facilities designated by Buyer and to delete Sellers’ facilities, and assuming all responsibility for maintenance of the Product ANDAs. All decisions regarding the validation of Products and the conduct of regulatory activities with respect to the Products after the Closing Date shall be made by Buyer in its sole and absolute

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
discretion, and all such regulatory activities shall be at its sole cost. Sellers shall use commercially reasonable efforts in providing reasonable cooperation and pre-launch regulatory assistance to Buyer for unlaunched Products, including making available Sellers’ personnel. In addition, solely with respect to the Supply Pipeline Products, Sellers shall use commercially reasonable efforts to provide validation support services for Supply Pipeline Products from Sellers’ facilities as may be reasonably requested by Buyer. For the avoidance of doubt, Buyer shall bear the reasonable costs (including Direct Costs) incurred by Sellers in connection with any such pre-launch regulatory assistance and validation support services provided pursuant to this Section 7.3(b).

(c) With respect to [****], from and after the Closing Date until the earlier of (i) the receipt of final Product Approval or (ii) [****] following the Closing Date, such Seller agrees to use commercially reasonable efforts to make available to Buyer, upon Buyer’s reasonable request, personnel knowledgeable to answer questions regarding the pre-Closing development of [****] either by teleconference or videoconference; provided that, for the avoidance of doubt, such Seller will not perform technical work in connection with the foregoing assistance. Notwithstanding any term or provision of this Section 7.3 to the contrary, Section 7.3(a) and Section 7.3(b) shall not apply with respect to [****].

SECTION 7.4. Sellers’ NDC Numbers

Buyer and its Affiliates will (i) sell Products only under Buyer NDC Numbers and (ii) not sell any Product under Sellers’ or their Affiliates names, in each case, save to the extent contemplated or permitted hereunder (including in Section 2.4(c)) or under the Supply Agreement and subject to, and in compliance with, the terms set forth in Appendix III.

SECTION 7.5. Competition

(a) The parties hereto agree and acknowledge that the provisions of this Agreement will not be construed to limit or restrict in any manner the right of Sellers or any of their Affiliates to develop, manufacture, use, sell or commercialize in any manner any pharmaceutical product, including any product competitive with the Products if sold under a Product ANDA or other filing that is not being purchased by Buyer as part of the Transferred Assets hereunder, either in the Territory or outside of the Territory.

(b) Nothing contained in this Agreement will be construed as prohibiting Sellers or any of their Affiliates from: (a) acquiring (whether by merger, asset or stock acquisition or otherwise) another company, business or line of products (including by license thereof or through investment therein), which makes, has made, sells, has sold, markets, has marketed, distributes or has distributed or otherwise represents a product which is substantially similar to or equivalent to a Product and continuing to operate such company, business or line of products following such acquisition; or (b) entering into a joint venture, alliance or other similar collaborative arrangement between Sellers or any of their Affiliates and any third party which joint venture makes, has made, sells, has sold, markets, has marketed, distributes or has distributed a product which is substantially similar to or equivalent to a Product and continuing to participate in such collaboration.

- 28 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 7.6. Sales Data; Customer

(a) On the Effective Date, Sellers shall deliver to Buyer quarterly net sales data by SKU (as calculated by Sellers in accordance with their standard practice) for the previous six (6) month period.

(b) Within [****] after the Closing Date, Sellers shall update the Customer List and the information required to be provided pursuant to Section 7.6(a) as necessary, to ensure that such information remains materially accurate and complete up to and including the Closing Date.

(c) On or before the date that is [****] prior to the Closing Date, Sellers shall deliver to Buyer a report setting forth (i) the monthly sold units per SKU by Customer for the Products (as calculated by Seller in accordance with its standard practice) for the previous six (6) month period and (ii) the current Net Price after all discounts by SKU by Customer.

(d) On or after the date that is [****] prior to the Closing Date, but in no event earlier than such date, and subject to Section 8.3 hereof, Buyer may contact the Customers and prospective customers to promote the Products and the distribution thereof; provided, for the avoidance of doubt, that prior to such date the Buyer shall not contact any Person to promote the Products and the distribution thereof.

(e) The parties hereto agree that as of the Closing Date, Buyer shall be permitted to distribute the Customer Notices to customers that have purchased the Products during the previous six (6) month period (the “Customers.”).

ARTICLE VIII.
CERTAIN COVENANTS AND AGREEMENTS

SECTION 8.1. Insurance

At all times from the Closing Date through that date which is three (3) years after the termination or expiration of this Agreement, Buyer will maintain product liability and other insurance for itself (either in its own name or in the name of its Affiliates) in amounts, respectively, which are reasonable and customary in the U.S.A. pharmaceutical industry for companies of comparable size, provided that in no event shall the product liability insurance amounts be less than $25,000,000 per occurrence and $25,000,000 in the aggregate limit of liability per year. Buyer shall provide the Sellers with written proof of such insurance upon Sellers’ request.

SECTION 8.2. Books and Records

Buyer will preserve all books and records included within the Transferred Assets for applicable periods of time as required by the FDA or FTC and, subject to Section 8.3 hereof, make such books and records available for inspection and copying by Sellers or their agents upon reasonable request and upon reasonable notice.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 8.3. **Confidentiality**

Each party hereto or its Affiliates or contractors (a “Disclosing Party”) may, from time to time, prior to or after the Effective Date, disclose to the other party (the “Receiving Party”) information of a technical or non-technical nature that is not generally known to the trade or public. The Receiving Party agrees that it will not use for any purpose other than as necessary to perform its obligations under this Agreement and the Supply Agreement or as otherwise permitted under this Agreement or the Supply Agreement, and will not disclose to anyone in any manner whatsoever, any such information, including, without limitation, information relating in any way to the products, processes, and services of the Disclosing Party, which becomes known to the Receiving Party on or prior to the latter of the date of the (a) termination of this Agreement or (b) termination or expiration of the Supply Agreement. The obligations of this Section 8.3 will not apply to information that (i) is known to the Receiving Party as shown by written records prior to its disclosure by the Disclosing Party or its Affiliates or its contractors; (ii) becomes public information or is generally available to the public other than by an unauthorized act or omission of the Receiving Party; or (iii) is received by the Receiving Party from third parties who are in rightful possession of such information and who are lawfully entitled to disclose such information to the Receiving Party and did not receive such information from Disclosing Party. From and after the Closing Date, the Transferred Assets and all confidential information related solely and exclusively to the Transferred Assets or the manufacture thereof shall be considered the confidential information of Buyer under this Section 8.3 and the obligations of this Section 8.3 in respect thereof will apply to Sellers and not the Buyer, and to the extent any confidential information related to the Transferred Assets or the manufacture thereof is used by Sellers in their retained business, the use by Sellers of such confidential information in their retained business in the ordinary course shall not be deemed a breach of this Section 8.3; provided, however, that, for the avoidance of doubt, confidential information used by Sellers in their retained businesses or the manufacture of the Transferred Assets that is not solely and exclusively related to the Transferred Assets shall constitute the confidential information of Sellers. Upon the latter of (x) the date of termination of this Agreement or (y) the termination or expiration of the Supply Agreement, the Receiving Party will return to the Disclosing Party all documents that include confidential information of the Disclosing Party or its contractors (other than the Transferred Assets), including all copies of such documents or extracts therefrom, if any, and will make no further use of such information. To the extent that the confidential information relates to the Products, each Disclosing Party or Receiving Party, as the case may be, shall create an internal firewall and use reasonable best efforts to protect against the disclosure of such information to such Disclosing Party’s or Receiving Party’s, as the case may be, marketing and sales personnel.

SECTION 8.4. **Assumption of Regulatory Commitments**

From and after the Closing Date, except as set forth in the terms set forth in Appendix III or the pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement, Buyer will assume control of, and responsibility for all costs and Liabilities arising from or related to any commitments or obligations to any Governmental Entity involving the Products, only to the extent arising from or relating to Product sold by Buyer after the Closing.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Date, and in the case of any Products that are subject to obtaining FDA approval of any unapproved Product ANDA, transferred to Buyer on the Closing Date.

SECTION 8.5.  Bulk Transfer Laws

Buyer hereby waives compliance by Sellers with the provisions of any so-called “bulk transfer law” of any jurisdiction in connection with the sale of the Transferred Assets to Buyer.

SECTION 8.6.  Buyer NDC Numbers; Buyer Trademarks and Buyer Trade Dress Changes

Buyer covenants and agrees that, if not already applied for, immediately following the Effective Date (if permitted by Governmental Rule), or otherwise within five (5) days of the Closing Date, Buyer will apply for and initiate applicable processes to obtain and establish new NDC Numbers (the “Buyer NDC Numbers”) and notify Sellers thereof.

SECTION 8.7.  Response to Medical Inquiries and Products Complaints

After the Closing Date, except as set forth in the terms set forth in Appendix III or the pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement, Buyer will assume all responsibility for responding to any medical inquiries or complaints about the Products in the Territory.

SECTION 8.8.  Use of Transferred Assets

Nothing contained in this Agreement will be construed as prohibiting Buyer or any of its Affiliates from: (a) acquiring (whether by merger, asset or stock acquisition or otherwise) another company, business or line of products (including by license thereof or through investment therein), which makes, has made, sells, has sold, markets, has marketed, distributes or has distributed or otherwise represents a product which is substantially similar to or equivalent to a Product and continuing to operate such company, business or line of products following such acquisition; or (b) entering into a joint venture, alliance or other similar collaborative arrangement between Buyer or any of its Affiliates thereof and any third party which joint venture makes, has made, sells, has sold, markets, has marketed, distributes or has distributed a product which is substantially similar to or equivalent to a Product, and continuing to participate in such arrangement.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
ARTICLE IX.

OTHER COVENANTS AND AGREEMENTS

SECTION 9.1. Trade Returns, Medicaid Rebates, Chargebacks

(a) Buyer will, at its expense, process and bear the cost of returns of any Products bearing Buyer’s NDC Number sold by Buyer or its Affiliates and returned in accordance with Buyer’s returned goods policy (“Buyer Returns”) and (ii) Sellers will, at their expense, process and bear the cost of returns on or after the Closing Date of all Products other than Buyer Returns.

(b) Sellers and Buyer will be responsible for processing and payment of all Medicaid Reimbursements and Rebates for the Products sold bearing their respective NDC Numbers.

(c) Sellers will be responsible for any and all payments, rebates, administrative fees or chargebacks due to customers under Sellers’ contracts for Products bearing the Seller NDC Number which were sold by any Seller or its Affiliates (“Seller Payments”). Buyer agrees that Sellers shall have no responsibility for, and “Seller Payments” shall not include, credits for shelf stock adjustments or similar adjustments resulting from price decreases on or after the Closing Date. Buyer will be responsible for all payments, rebates, administrative fees or chargebacks due in connection with any and all sales of Products by or on behalf of Buyer, other than Seller Payments.

(d) Notwithstanding any term or provision of this Section 9.1 to the contrary, the parties agree that the terms set forth in Appendix III shall control the obligations of each party with respect to Medicaid Reimbursements and Rebates, returns, rebates, adverse event reporting, audits, administrative fees, chargebacks and shelf stock adjustments as more specifically set forth therein relating to sales of the Transition Products initially supplied to Buyer bearing the Seller NDC Numbers.

SECTION 9.2. Adverse Experience Reports

Sellers shall continue to be responsible for adverse experience reporting to the FDA until the Closing Date. Buyer and Sellers shall negotiate in good faith and agree on a process and procedure for sharing adverse event information for the Products in which Sellers will manufacture and supply Buyer from a retained ANDA, which shall be documented in a pharmacovigilance agreement to be entered into by the parties pursuant to the Supply Agreement. For all other Products, Sellers shall at all times provide to Buyer all adverse drug experience information brought to the attention of Sellers in respect of the Products manufactured by Sellers, as well as any material events and matters concerning or affecting safety of the Products manufactured by Sellers. At and after the Closing, Sellers shall cooperate with Buyer’s requests regarding adverse experience information in respect of the Products to ensure that all adverse experience data is transferred to Buyer, including data migration and transition reporting services as requested by Buyer consistent with Schedule 9.2.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Each party will bear the Direct Costs incurred by it and its Affiliates in connection with its activities undertaken pursuant to Schedule 9.2. After the Closing Date, subject to this Agreement, the Supply Agreement, the Quality Agreement and any other agreement executed between the parties and/or their Affiliates with respect to any Product, Sellers will submit to Buyer all adverse drug experience information brought to the attention of Sellers in respect of the Products, as well as any material events and matters concerning or affecting safety of the Products. After the Closing Date, any new adverse experience reports or any follow-up adverse experience reports received by Sellers will be forwarded to Buyer, together with any source documents. Unless notified otherwise in writing by Buyer, Sellers shall forward such reports to:

Impax Laboratories, Inc.
31047 Genstar Road
Hayward, CA 94544

Attention: Rachel J. Summers
Senior Director, Corporate Drug Safety Operations
Facsimile: (510) 240-6113.

SECTION 9.3. Transfer of Product ANDAs, Etc.

(a) Sellers will cooperate with Buyer in disclosing any relevant records and reports which are required to be made, maintained and reported pursuant to Governmental Rules in the Territory with respect to the Product ANDAs that are part of the Transferred Assets.

(b) The parties hereto agree to use their reasonable efforts to take any other actions required by the FDA to effect the transactions contemplated hereby. On the Closing Date, each of the parties hereto will take any actions necessary to affect the transfer of the Product ANDAs from Sellers to Buyer, including notices to the FDA regarding such transfer from Sellers to Buyer of the Product ANDAs. Each party shall bear its own costs related thereto. The parties shall use their reasonable best efforts and take all necessary actions to cause the transfer of hard copies (to the extent reasonably in each such Seller’s possession) of the Product ANDAs to Buyer as soon as reasonably practicable after the Closing.

SECTION 9.4. Further Action; Consents; Filings

(a) Upon the terms and subject to the conditions hereof, each of Buyer and Sellers will use commercially reasonable efforts to (i) take, or cause to be taken, all actions necessary, proper or advisable under applicable Governmental Rules or otherwise to satisfy the conditions to Closing set forth in Article X and consummate and make effective the transactions contemplated by this Agreement, (ii) obtain from the requisite Governmental Entities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement and (iii) make all necessary filings, and thereafter make any other advisable submissions, with respect

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
to this Agreement and the transactions contemplated by this Agreement required under any applicable Governmental Rules, including without limitation all filings with the FDA or other Governmental Entity needed to obtain approval of Buyer to manufacture the Products in a timely and reasonable manner. Each of Sellers and Buyer will provide copies of all non-confidential documents to each other party and its advisors prior to filing and, if requested, will accept all reasonable additions, deletions or changes suggested in connection therewith. Each of Sellers and Buyer will furnish all information required for any application or other filing to be made pursuant to the rules and regulations of any applicable Governmental Rules in connection with the transactions contemplated by this Agreement.

(b) Each of Buyer and Sellers shall use reasonable best efforts to obtain from the FTC preliminary approval for Buyer as the purchaser of the Transferred Assets. Each of Buyer and Sellers agree to cooperate and use its reasonable best efforts vigorously to contest and resist any action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order (whether temporary, preliminary or permanent) that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement, including by vigorously pursuing all available avenues of administrative and judicial appeal and all available legislative action.

SECTION 9.5. Compliance with the Federal Trade Commission Decision

Reference is made to the Order. The parties hereto agree that the provisions set forth in Appendix II, which provisions are called for by the Order, are incorporated into this Agreement as if set forth in their entirety in this Agreement. To the extent the provisions of Appendix II conflict with the provisions of this Agreement or the provisions of the Supply Agreement, the provisions of Appendix II shall govern.

SECTION 9.6. Representations to Customers.

During the [****] period following the Closing, Buyer and Sellers each agrees not to make any false and/or disparaging statements about any Product.

SECTION 9.7. Financial Information.

Sellers shall, and shall cause their Affiliates to, use its reasonable best efforts to cause their accountants, auditors, counsel and other representatives to, (i) promptly cooperate with Buyer and provide all reasonable assistance to Buyer and its representatives (including providing Buyer access to its and its auditors’ relevant work papers and historical data as are reasonably required by Buyer to prepare the financial information referred to in this clause (i)) so that Buyer can, at its own cost and expense, prepare within [****] days following the Closing Date any audited and unaudited financial information in accordance with the requirements of Regulation S-X under the Securities Act and all other applicable accounting rules and regulations of the Securities and Exchange Commission promulgated thereunder that Buyer has reasonably determined that it is required to file in a Form 8-K or Form 8-K/A by Buyer as a result of the consummation of the transactions contemplated hereby (after giving effect to the waiver letter

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
received by Buyer from the Securities and Exchange Commission on April 29, 2016 (the “SEC Waiver Letter”) and further giving effect to the additional assets being acquired under this Agreement and not referred to in the SEC Waiver Letter (i.e., three years of financial information rather than one year of financial information), (ii) to the extent the Closing Date is on or prior to June 30, 2016, provide to Buyer no later than [****] unaudited financial information reasonably necessary for Buyer to prepare pro forma financial information in respect of the Transaction required to be included in accordance with GAAP in Buyer’s quarterly report on Form 10-Q for the quarter ended June 30, 2016; provided that such unaudited financial information shall be limited to, and in accordance with terms of, that which is required under the SEC Waiver Letter and (iii) provide Buyer, for the twelve (12) month period following the Closing Date, such customary information reasonably requested by the Buyer to the extent relating to the Transferred Assets for inclusion in any registration statement, prospectus, Form 10-Q, Form 10-K or private placement memorandum. Buyer shall reimburse Sellers and their Affiliates for all reasonable and documented expenses (other than internal direct labor costs) incurred by Sellers and their Affiliates in providing cooperation requested by Buyer pursuant to this Section 9.7.


Buyer and Sellers agree to provide each other with such information and assistance as is reasonably necessary, at the cost of the requesting party, including access to records and personnel, for the preparation of any Tax Return or for the defense of any Tax claim or assessment related to the Transferred Assets or the Assumed Liabilities, whether in connection with an audit or otherwise; provided that the requesting party shall only reimburse the other party’s reasonable and documented out-of-pocket costs.

ARTICLE X.

CONDITIONS PRECEDENT

SECTION 10.1. Conditions to Each Party’s Obligations

The obligation of Buyer to purchase the Transferred Assets from Sellers and assume the Assumed Liabilities and the obligations of Sellers to sell, assign, convey and deliver the Transferred Assets to Buyer will be subject to the satisfaction prior to the Closing of the following conditions:

(a) No Litigation, Injunctions, or Restraints. No temporary restraining order, preliminary or permanent injunction or other legal restraint or prohibition preventing the consummation of the transactions contemplated by this Agreement will be threatened or in effect.

(b) FTC Preliminary Approval. The FTC shall have preliminarily approved the Buyer as the purchaser of the Transferred Assets hereunder.

(c) Allergan Closing. The Allergan Closing shall have occurred.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(d) **Related Transactions.** Prior to or concurrently with the Closing, the transactions contemplated by the Other Acquisition Agreement shall have been consummated.

SECTION 10.2. **Conditions to Obligations of Buyer**

The obligation of Buyer to purchase the Transferred Assets from Sellers and to assume the Assumed Liabilities is subject to the satisfaction on and as of the Closing of each of the following additional conditions (any or all of which may be waived in whole or in part by Buyer):

(a) **Representations and Warranties.** The representations and warranties of Sellers set forth in this Agreement will be true and correct (without giving effect to any materiality or Material Adverse Effect qualifications set forth therein) in all respects as of the Closing as though made on and as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties will be true and correct as of such earlier date), and except in each case for breaches of such representations and warranties that would not, individually or in the aggregate, have a Material Adverse Effect.

(b) **Performance of Obligations of Sellers.** Sellers will have performed or complied in all material respects with the obligations, conditions and covenants required to be performed by them under this Agreement at or prior to the Closing.

(c) **No Material Adverse Effect.** There shall not have been a Material Adverse Effect.

(d) **Deliveries.** Sellers will have duly executed and delivered to Buyer, dated as of the Closing Date, the (i) Assignment and Assumption Agreement, (ii) Bill of Sale and (iii) Seller Officer’s Certificate.

SECTION 10.3. **Conditions to the Obligations of Seller**

The obligations of Sellers to sell, assign, convey, and deliver the Transferred Assets, or to cause the Transferred Assets to be sold, assigned, conveyed or delivered, as applicable, to Buyer are subject to the satisfaction on and as of the Closing of each of the following additional conditions (any or all of which may be waived in whole or in part by Sellers):

(a) **Representations and Warranties.** The representations and warranties of Buyer set forth in this Agreement will be true and correct (without giving effect to any materiality or similar qualifications set forth therein) in all respects as of the Closing as though made on and as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties will be true and correct as of such earlier date), and except in each case for breaches of such representations and warranties that would not, individually or in the aggregate, have a Material Adverse Effect.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) **Performance of Obligations of Buyer.** Buyer will have performed in all material respects the obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) **Purchase Price.** Buyer will have paid the Purchase Price.

(d) **Deliveries.** Buyer will have duly executed and delivered to Sellers, dated as of the Closing Date, the (i) Assignment and Assumption Agreement, (ii) the Bill of Sale, and (iii) the Buyer Officer’s Certificate.

**ARTICLE XI.**

**TERMINATION, AMENDMENT AND WAIVER**

**SECTION 11.1. Termination**

(a) Notwithstanding anything to the contrary in this Agreement, this Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

(i) by mutual written consent of Sellers and Buyer;

(ii) by Sellers if any of the conditions set forth in Section 10.1 or 10.3 will have become incapable of fulfillment and will not have been waived by Sellers;

(iii) by Buyer if any of the conditions set forth in Section 10.1 or 10.2 will have become incapable of fulfillment and will not have been waived by Buyer;

(iv) by Sellers or Buyer if the Closing does not occur on or prior to one year from the Effective Date; provided, however, that the right to terminate this Agreement pursuant to this clause (iv) shall not be available to any party hereto whose action or failure to fulfill any obligation under this Agreement has been the primary cause of the failure of the Closing to have occurred on or prior to one year from the Effective Date;

(v) by Sellers, if Buyer is not preliminarily approved by the FTC or other necessary Governmental Entity as a purchaser of the Transferred Assets hereunder;

(vi) by Sellers, if the staff of the FTC informs Sellers or their Affiliates in writing that the staff will not recommend approval of Buyer as purchaser of the Transferred Assets hereunder; or

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(vii) by Sellers or Buyer if the Allergan Agreement is terminated prior to the consummation of the transactions contemplated by the Allergan Agreement.

provided, however, that the party seeking termination pursuant to clause (ii), (iii) or (iv) is not in breach of any of its representations, warranties, covenants or agreements contained in this Agreement.

(b) In the event of termination of this Agreement pursuant to this Section 11.1, written notice thereof will forthwith be given to the other party and the transactions contemplated by this Agreement will be terminated, without further action by any party. If the transactions contemplated by this Agreement are terminated as provided herein:

(i) Buyer will return all documents and other material received from Sellers relating to the Products, the Transferred Assets, the Product Technology, or the transactions contemplated hereby, whether so obtained before or after the execution hereof, to Sellers and, if applicable, Sellers shall return any delivered portions of the Purchase Price to Buyer;

(ii) all confidential information received by Buyer with respect to Sellers, the Products, the Transferred Assets, the Product Technology will be treated in accordance with Section 8.3, which will remain in full force and effect notwithstanding the termination of this Agreement; and

(iii) the Supply Agreement shall be terminated.

(c) If this Agreement is terminated, no party hereto and none of their respective directors, officers, stockholders, Affiliates or controlling Persons shall have any further liability or obligation under this Agreement, except as set forth in paragraphs (a) and (b) of this Section, except that (i) nothing in this Section 11.1 will be deemed to release any party from any liability for any willful and material breach by such party of the terms and provisions of this Agreement, and (ii) the provisions of Section 8.3 shall survive termination of this Agreement.

SECTION 11.2. Amendments and Waivers

This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto. By an instrument in writing, Buyer, on the one hand, or Sellers, on the other hand, may waive compliance by the other party with any term or provision of this Agreement that such other party was or is obligated to comply with or perform.

SECTION 11.3. Rescission

If at the time the FTC determines to make final and effective its Order concerning the Proposed Allergan Transaction, the FTC notifies Sellers or their Affiliates that Buyer is not an acceptable purchaser of the Transferred Assets, then each of Sellers and Buyer shall have the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
right immediately to rescind this Agreement, and the provisions of Sections 11.1(b) and 11.1(c) shall be applicable as if a
termination of this Agreement had occurred.

SECTION 11.4.  Modification

If at the time the FTC determines to make final and effective its Order concerning the Proposed Allergan Transaction, the
FTC notifies Sellers or their Affiliates that this Agreement is not an acceptable manner of divestiture, Sellers and Buyer shall
reasonably seek to modify this Agreement as may be necessary to satisfy the FTC.

ARTICLE XII.

INDEMNIFICATION

SECTION 12.1.  Survival

All representations and warranties of Sellers and Buyer contained herein or made pursuant hereto shall survive the Closing
Date and shall remain operative and in full force and effect for a period of twelve (12) months following the Closing Date (the “
Expiration Date”). Notwithstanding anything herein to the contrary, any breach of a representation or warranty that is the subject of
a claim that is asserted in writing prior to the Expiration Date shall survive with respect to such claim or any dispute with respect
thereto until the final resolution thereof.

SECTION 12.2.  Indemnification by Sellers

(a) Subject to Section 12.4, Sellers hereby agree that from and after the Closing Date, Sellers shall indemnify Buyer
and its Affiliates and their respective officers, directors and employees (the “Buyer Indemnified Parties”) against, and hold them
harmless from, and pay and reimburse such Parties for, any Losses to the extent such Losses arise from the following:

(i) the failure of any representation or warranty made by Sellers contained in this Agreement to be true and
accurate as of the Closing;

(ii) any breach by Sellers of any of their covenants, agreements or obligations contained in this Agreement; and

(iii) any and all Excluded Assets and/or Excluded Liabilities.

SECTION 12.3.  Indemnification by Buyer

(a) Subject to Section 12.4 hereof, Buyer hereby agrees that from and after the Closing Date, Buyer shall indemnify
each Seller and its Affiliates and their respective officers, directors and employees (the “Seller Indemnified Parties”) against, and
hold them harmless from, and pay and reimburse such Parties for, any Losses to the extent such Losses arise from the following:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
the failure of any representation or warranty made by Buyer contained in this Agreement to be true and accurate as of the Closing;

(ii) any breach by Buyer of any of its covenants, agreements or obligations contained in this Agreement; and

(iii) any and all Transferred Assets and/or Assumed Liabilities.

Buyer Indemnified Parties and Seller Indemnified Parties are sometimes referred to herein as “Indemnified Parties”.

SECTION 12.4. Limitations.

(a) The amount of any Losses for which either any Seller or Buyer, as the case may be, is liable shall be reduced by (i) the amount of any insurance proceeds actually paid to the Buyer Indemnified Party and the Seller Indemnified Party, as applicable, and (ii) the aggregate amount actually recovered under any Assigned Contract (if applicable) or any other indemnity agreement, contribution agreement, or other Contract between any of the Indemnified Parties, on the one hand, and any third Person, on the other hand, with respect to such Losses.

Notwithstanding the other provisions of this Article XII, Sellers shall not have any indemnification obligations for any individual Losses arising from or in connection with Section 12.2(a)(i) unless and until the aggregate amount of all such Losses, together with the amount of all such Losses under the Other Acquisition Agreement, exceed $2,879,000 (the “Deductible”), in which event Sellers shall be required to pay the full amount of such Losses to the extent exceeding the Deductible, but only up to a maximum aggregate amount (with respect to this Agreement, together with the full amount of such Losses paid or payable by Seller under the Other Acquisition Agreement) of $57,580,000 (the “Cap”); provided, that with respect to any claim to which any Buyer Indemnified Party may be entitled to indemnification under Section 12.2, Sellers shall not be liable for any individual or series of related Losses which do not exceed $100,000 and any Losses with respect thereto shall not be included in Losses for purposes of determining the Deductible or the Cap.

(b) In no event shall any party or any of its Affiliates be liable by reason of any breach of any representation, warranty, condition or other term of this Agreement or any duty of common law, for any punitive loss or damage and each party hereto agrees that it shall not make any such claim; provided that the foregoing does not limit any of the obligations or liability of any party or its Affiliates under Sections 12.2 and 12.3 with respect to claims of unrelated third parties.

(c) Neither Sellers nor Buyer shall have any Liability under this Agreement in respect of any Loss if such Loss would not have arisen but for (i) a change in legislation or accounting policies after the Closing or (ii) a change in any Law after the Closing or a change in the interpretation of any Law after the Closing as determined by a Governmental Entity.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
For purposes of determining whether a failure of any representation or warranty made by any Seller or Buyer contained in this Agreement is true and accurate as of the Closing and for calculating the amount of Losses indemnifiable hereunder, any materiality, Material Adverse Effect or similar qualifications in such representation or warranty shall be disregarded.

Except for claims based on fraud, the right of the Buyer Indemnified Parties and the Seller Indemnified Parties under this Article XII shall be the sole and exclusive monetary remedy of the Buyer Indemnified Parties and the Seller Indemnified Parties, as the case may be, with respect to matters covered hereunder, including but not limited to claims relating to the Products, the Transferred Assets or Product Technology, Assumed Liabilities or Excluded Liabilities and no Indemnified Party shall have any other cause of action or remedy at law in equity for breach of contract, rescission, tort, or otherwise against the other party arising under or in connection with this Agreement and the matters and transactions contemplated hereby. Without limiting the generality of the preceding sentence, except in the case of specific performance and for claims based on fraud, no legal action sounding in contribution, tort, or strict liability (in each case, other than claims made or contemplated by this Article XII) may be maintained by an Indemnified Party, or any of its officers, directors, other governing bodies, employees, equityholders, owners, Affiliates, representatives, agents, successors, or assigns, against Sellers or Buyer or any of their Affiliates with respect to any matter that is the subject of Article XII, and Buyer and Sellers, for themselves and the other Indemnified Parties and each of their respective officers, directors, other governing bodies, employees, equityholders, owners, Affiliates, representatives, agents, successors, and assigns, hereby waive any and all statutory rights of contribution or indemnification (other than rights of indemnification hereunder) that any of them might otherwise be entitled to under any Law with respect to any matter that is the subject of this Article XII.

SECTION 12.5. Procedure

(a) In order for an Indemnified Party to be entitled to any indemnification provided for under this Agreement, such Indemnified Party will, within a reasonable period of time following the discovery of the matters giving rise to any Losses, notify the indemnifying party under this Article XII (the “Indemnifying Party”) in writing of its claim for indemnification for such Losses, specifying in reasonable detail the nature of such Losses and the amount of the liability estimated to accrue therefrom; provided, however, that failure to give such notification will not affect the indemnification provided hereunder, except to the extent the Indemnifying Party will have been prejudiced as a result of such failure. Thereafter, the Indemnified Party will deliver to the Indemnifying Party, within a reasonable period of time after the Indemnifying Party’s receipt of such request, all information and documentation reasonably requested by the Indemnifying Party with respect to such Losses.

(b) If the indemnification sought pursuant hereto involves a claim made by a third party against the Indemnified Party (a “Third Party Claim”), the Indemnifying Party will be entitled to assume the defense of such Third Party Claim at its own expense with counsel selected by the Indemnifying Party. Should the Indemnifying Party so elect to assume the
defense of a Third Party Claim, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof. If the Indemnifying Party assumes such defense, the Indemnifying Party will have the right to participate in the defense thereof and to employ counsel, at its own expense (which expense shall not constitute a Loss), separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party will control such defense. The Indemnifying Party will be liable for the reasonable and documented fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnifying Party has not assumed the defense thereof (other than during any period in which the Indemnified Party will have failed to give notice of the Third Party Claim as provided above). If the Indemnifying Party chooses to defend or prosecute a Third Party Claim, all of the parties hereto will cooperate in the defense or prosecution thereof. Such cooperation will include the retention and (upon the Indemnifying Party’s request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. If the Indemnifying Party chooses to defend or prosecute any Third Party Claim, it will defend or prosecute it diligently and the Indemnifying Party will obtain the prior written consent of the Indemnified Party (not to be unreasonably withheld) before entering into any settlement, compromise or discharge of such Third Party Claim if (i) such settlement, compromise or discharge does not relate solely to monetary damages, (ii) such settlement, compromise or discharge does not expressly unconditionally and completely release the Indemnified Party from all Losses and liabilities with respect to such Third Party Claim and (iii) the Indemnifying Party is not directly paying the full amount of the Losses in connection with such Third Party Claim. Whether or not the Indemnifying Party will have assumed the defense of a Third Party Claim, the Indemnified Party will not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the Indemnifying Party’s prior written consent (not to be unreasonably withheld).

(c) If an indemnification payment is received by Buyer Indemnified Party or Seller Indemnified Party, as applicable, and such Indemnified Party later receives insurance proceeds in respect of the related Losses or other recoveries under section 12.4(a)(ii) above that were not previously credited against such indemnification payment when made, such Indemnified Party shall promptly pay to the Indemnifying Party, an amount equal to the lesser of (A) such insurance proceeds or other recoveries, with respect to such Losses and (B) the net indemnification payment previously paid by such Indemnifying Party with respect to such Losses. Each Indemnified Party shall use reasonable and good faith efforts to collect amounts available under available insurance coverage and promptly and diligently pursue such claims relating to any Losses for which it is seeking indemnification.

(d) Each Indemnified Party shall take, and shall cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would reasonably be expected to, or such Indemnified Party believes does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss; provided, that such failure to use such efforts in accordance with the
foregoing shall not relieve the Indemnifying Party of its indemnification obligations under this Article XII except and only to the extent that the Indemnifying Party is prejudiced thereby.

**ARTICLE XIII.**

**GENERAL PROVISIONS**

**SECTION 13.1. Expenses**

Except as otherwise specified in this Agreement and the Supply Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the party incurring such costs and expenses, whether or not the Closing will have occurred. For the avoidance of doubt, Buyer will not have any obligation to make any payment in respect of the initial Firm Order (as defined in the Supply Agreement) if this Agreement is terminated prior to the Closing Date.

**SECTION 13.2. Further Assurances and Actions**

Each of the parties hereto, upon the request of the other party hereto, whether before or after the Closing and without further consideration, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably necessary to effect complete consummation of the transactions contemplated by this Agreement. Sellers and Buyer agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to consummate or implement expeditiously the transactions contemplated by this Agreement. From and after the Closing, each of the parties shall cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and do, or cause to be done, and assist and cooperate with the other parties in doing, all things reasonably requested by the other party hereto with respect to the transactions contemplated hereby.

**SECTION 13.3. Notices**

All notices and other communications required or permitted to be given or made pursuant to this Agreement shall be in writing signed by the sender and shall be deemed duly given (a) on the date delivered, if personally delivered, (b) on the date sent by telecopier with automatic confirmation by the transmitting machine showing the proper number of pages were transmitted without error, (c) on the Business Day after being sent by Federal Express or another recognized overnight mail service which utilizes a written form of receipt for next day or next business day delivery or (d) two (2) Business Days after mailing, if mailed by U.S. postage-prepaid certified or registered mail, return receipt requested, in each case addressed to the applicable party at the address set forth below; provided that a party may change its address for receiving notice by the proper giving of notice hereunder:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
if to Sellers prior to Closing, to:

Allergan plc  
Morris Corporate Center III  
400 Interpace Parkway  
Parsippany, New Jersey 07054  
Attention: Chief Legal Officer and Secretary  
Facsimile: +1 (862) 261-8043

With a copy (which shall not constitute notice) to:

Latham & Watkins LLP  
885 Third Avenue  
New York, NY 10022-4834  
Attn: Charles K. Ruck  
R. Scott Shean  
Facsimile: +1 (212) 751-4864

and

Teva Pharmaceutical Industries Ltd.  
5 Basel Street  
P.O.B. 3190  
Petach Tikvah, Israel  
Attention: Dror Bashan

Email: Dror.Bashan@teva.co.il

and

Teva Pharmaceutical USA, Inc.  
425 Privet Road  
PO Box 1005  
Horsham, PA 19044 U.S.A  
Attention: General Counsel  
Fax: (215) 293-6499

and

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
Attention: Daniel E. Wolf  
Facsimile: (212) 446-6460

and
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Attention: Mark Kovner
Facsimile: (202) 879-5200

if to Sellers following Closing, to:

Teva Pharmaceutical Industries Ltd.
5 Basel Street
P.O.B. 3190
Petach Tikvah, Israel
Attention: Dror Bashan

Email: Dror.Bashan@teva.co.il

and

Teva Pharmaceutical USA, Inc.
425 Privet Road
PO Box 1005
Horsham, PA 19044 U.S.A
Attention: General Counsel
Fax: (215) 293-6499

With a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Daniel E. Wolf
Facsimile: (212) 446-6460

and

Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Attention: Mark Kovner
Facsimile: (202) 879-5200

if to Buyer, to:

Impax Laboratories, Inc.
121 New Britain Blvd.
Chalfont, PA 18914
[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 13.4.  Headings

The table of contents and headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

SECTION 13.5.  Severability

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

SECTION 13.6.  Counterparts

This Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto, it being understood that all parties hereto need not sign the same counterpart.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
SECTION 13.7. Entire Agreement; No Third-Party Beneficiaries

This Agreement and the Exhibits and Schedules hereto constitute the entire agreement and supersede all prior agreements and understandings, both written and oral (including any letter of intent, memorandum of understanding or term sheet), between or among the parties hereto with respect to the subject matter hereof. Except as specifically provided herein, this Agreement is not intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

SECTION 13.8. Governing Law

This Agreement and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the laws of the State of New York, U.S.A. applicable to agreements made and to be performed entirely in such State.

SECTION 13.9. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL

(a) Buyer and Sellers agree to irrevocably submit to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A., for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each party agrees to commence any such action, suit or proceeding either in the United States District Court for the Southern District of New York, U.S.A. or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail or recognized international courier service to such party’s respective address set forth in Section 13.3 of this Agreement shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction in this Agreement. Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A.

(b) THE BUYER AND THE SELLERS HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE PARTIES TO THIS AGREEMENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES TO THIS AGREEMENT MAY FILE AN ORIGINAL

- 47 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 13.10. Specific Performance

The parties hereto agree that irreparable damage may occur in the event any provision of this Agreement were not performed in accordance with its terms and that the parties hereto will be entitled to seek specific performance of such terms, in addition to any other remedy at law or in equity, without the necessity of demonstrating the inadequacy of monetary damages and without the posting of a bond.

SECTION 13.11. Allergan

Notwithstanding anything to the contrary contained herein, Buyer, on behalf of itself and its Affiliates acknowledges that neither Allergan nor any of its Affiliates (other than the Sellers) shall have any Liability under this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby, including, but not limited to, any dispute related to, or arising from, the Transferred Assets.

SECTION 13.12. Publicity

No party will make any public announcement concerning, or otherwise publicly disclose, any information with respect to the transactions contemplated by this Agreement or any of the terms and conditions hereof without the prior written consent of the other parties hereto, which consent will not be unreasonably withheld. Notwithstanding the foregoing, any party may make any public disclosure concerning the transactions contemplated hereby that in the view of such party’s counsel may be required by Law or the rules of any stock exchange on which such party’s or its Affiliates’ securities trade; provided, however, the party making such disclosure will provide the non-disclosing party with a copy of the intended disclosure reasonably, and to the extent practicable, prior to public dissemination, and the parties hereto will coordinate with one another regarding the timing, form and content of such disclosure.

SECTION 13.13. Assignment

None of the parties may assign its rights or obligations under this Agreement without (i) in the case of Sellers, the prior written consent of Buyer, or (ii) in the case of Buyer, the prior written consent of Sellers; provided, however, that after the Closing Date any party may assign its rights and obligations under this Agreement (including without limitation the Licenses and the covenant not to sue contained in Section 2.5), without the prior written consent of the applicable party, to an Affiliate or to a successor of the assigning party by reason of merger, sale of all or substantially all of its assets or portion of its business which relates to a Product or any number of the Products, or any similar transaction. Any permitted assignee or successor-in-interest will assume all obligations of its assignor under this Agreement. No assignment will relieve any party of its responsibility for the performance of any obligation. This Agreement will be binding.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

[signature page follows]

- 49 -

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be signed by their respective representatives thereunto duly authorized, all as of the date first written above.

**WATSON LABORATORIES, INC.**
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

**ACTAVIS HOLDCO US, INC**
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

**THE RUGBY GROUP, INC.**
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

**ANDRX LLC**
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

**ACTAVIS ELIZABETH LLC**
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President
ACTAVIS SOUTH ATLANTIC LLC

By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS MID ATLANTIC LLC

By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS PHARMA, INC

By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS LLC

By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS GROUP PTC ehf

By: /s/ Guojon Gustafsson
Name: Guojon Gustafsson
Title: Director

By: /s/ Hafrun Frioriksdottir
Name: Hafrun Frioriksdottir
By: /s/ Daniel Motto
Daniel Motto
Name: Daniel Motto
Title: Director

BREATH LTD.

By: /s/ Sara Vincent
Sara Vincent
Name: Sara Vincent
Title: Director

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson
G. Frederick Wilkinson
Name: G. Frederick Wilkinson
Title: President, Chief Executive Officer
EXECUTION VERSION

AMENDMENT NO. 1
TO THE
ASSET PURCHASE AGREEMENT

THIS AMENDMENT No. 1 TO THE ASSET PURCHASE AGREEMENT (this “Amendment”) is dated as of June 30, 2016, by and among Impax Laboratories, Inc., a Delaware corporation (“Buyer”), Actavis Elizabeth LLC, a Delaware limited liability company (“Actavis Elizabeth”), Actavis Group PTC Ehf., an Iceland einkahlutafelag (“Actavis PTC”), Actavis Holdco US, Inc., a Delaware corporation (“Actavis Holdco”), Actavis LLC, a Delaware limited liability company (“Actavis LLC”), Actavis Mid Atlantic LLC, a Delaware limited liability company (“Actavis Mid Atlantic”), Actavis Pharma, Inc., a Delaware corporation (“Actavis Pharma”), Actavis South Atlantic LLC, a Delaware limited liability company (“Actavis South Atlantic”), Andrx LLC, a Delaware limited liability company (“Andrx”), Breath Ltd., a United Kingdom private limited company (“Breath”), The Rugby Group, Inc., a New York corporation (“Rugby”), and Watson Laboratories, Inc., a Nevada corporation (“Watson” and, together with Actavis Elizabeth, Actavis PTC, Actavis Holdco, Actavis LLC, Actavis Mid Atlantic, Actavis Pharma, Actavis South Atlantic, Andrx, Breath and Rugby, each a “Seller” and, collectively, the “Sellers”).

WITNESSETH:

WHEREAS, Buyer and the Sellers executed that certain Asset Purchase Agreement, dated June 20, 2016 (as amended, restated, waived or otherwise modified, the “Agreement”); and

WHEREAS, the parties hereto have agreed to amend certain terms of the Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Any capitalized term used in this Amendment shall have the meaning designated for the capitalized term in the Agreement unless otherwise defined in this Amendment. The term “Agreement” used in the Agreement shall hereafter refer to the Agreement, as amended by this Amendment.

2. Amendment of the Agreement. The Agreement is hereby amended as follows (with deleted text shown as stricken and new text shown as double underlined):

   (a) Section 2.5 of the Agreement is hereby amended and restated in its entirety to read as follows:

   “Each of the Sellers and the Buyer hereby covenants that such party and its Affiliates will not bring any suits or claims, or cause or support any licensee or other third party to bring any suits or claims, against the other party or its Affiliates, their manufacturers and importers, or their distributors and customers or their consumers, alleging that the manufacture, use, sale, offer for sale or importation in or for the Territory of the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Products, or the equivalent competing products sold by or on behalf of each such Seller in or for the Territory, infringes any patent rights or misappropriates any trade secrets owned or controlled by such party or any of its Affiliates [****].”

(b) Section 9.4(b) of the Agreement is hereby amended and restated in its entirety to read as follows:

“Each of Buyer and Sellers shall use reasonable best efforts to obtain from the FTC preliminary approval for Buyer as the purchaser of the Transferred Assets. Each of Buyer and Sellers agree to cooperate and use its reasonable best efforts vigorously to contest and resist any third party action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order (whether temporary, preliminary or permanent) that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement, including by vigorously pursuing all available avenues of administrative and judicial appeal and all available legislative action; provided, however, that this last sentence of Section 9.4(b) shall not apply to any action by the FTC.”

3. Miscellaneous.

(a) Effectiveness of Amendment. This Amendment shall become effective upon the date hereof. In the event of any inconsistency or conflict between the Agreement and this Amendment, the terms, conditions and provisions of this Amendment shall govern and control.

(b) General Provisions. Article XIII of the Agreement shall apply to this Amendment, mutatis mutandis.

[****] — Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, this Amendment has been executed and delivered by the parties hereto effective as of the date first above written.

WATSON LABORATORIES, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS HOLDCO US, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

THE RUGBY GROUP, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ANDRX LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS ELIZABETH LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

[Signature Page to Impax-Allergan Asset Purchase Agreement Amendment]
ACTAVIS SOUTH ATLANTIC LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS MID ATLANTIC LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS PHARMA, INC.

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS GROUP PTC ehf

By: /s/ Guojon Gustafsson

Name: Guojon Gustafsson

Title: Director

By: /s/ Hafrun Frioriksdottir

Name: Hafrun Frioriksdottir

[Signature Page to Impax-Allergan Asset Purchase Agreement Amendment]
Title: Director

By: /s/ Daniel Motto

Name: Daniel Motto

Title: Director

BREATHT LTD.

By: /s/ Sara Vincent

Name: Sara Vincent

Title: Director

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson

Name: G. Frederick Wilkinson

Title: President, Chief Executive Officer

[Signature Page to Impax-Allergan Asset Purchase Agreement Amendment]
SUPPLY AGREEMENT

BETWEEN

TEVA PHARMACEUTICAL INDUSTRIES LTD.

AND

IMPAX LABORATORIES, INC.

DATED AS OF

JUNE 20, 2016
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Article I. DEFINITIONS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1.1. Definitions.</td>
<td>3</td>
</tr>
<tr>
<td>Section 1.2. Incorporation by Reference and Supremacy of FTC Order</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article II. MANUFACTURE AND SALE OF SUPPLY PRODUCTS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2.1. Engagement.</td>
<td>5</td>
</tr>
<tr>
<td>Section 2.2. Sale and Distribution.</td>
<td>6</td>
</tr>
<tr>
<td>Section 2.3. Packaging and Labeling.</td>
<td>6</td>
</tr>
<tr>
<td>Section 2.4. Facility Maintenance; Inspection; Reports.</td>
<td>6</td>
</tr>
<tr>
<td>Section 2.5. Adverse Events.</td>
<td>7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article III. FORECASTS, ORDERS AND SHIPMENT</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3.1. Forecasts.</td>
<td>8</td>
</tr>
<tr>
<td>Section 3.2. Orders.</td>
<td>8</td>
</tr>
<tr>
<td>Section 3.3. Delivery.</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article IV. REPRESENTATIONS AND WARRANTIES</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 4.1. Representations and Warranties of the Manufacturer.</td>
<td>10</td>
</tr>
<tr>
<td>Section 4.2. Representations and Warranties of the Buyer.</td>
<td>12</td>
</tr>
</tbody>
</table>

<p>| Article V.                                        |      |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1</td>
<td>The Manufacturer’s Covenants</td>
<td>12</td>
</tr>
<tr>
<td>5.2</td>
<td>The Buyer’s Covenants</td>
<td>13</td>
</tr>
<tr>
<td>5.3</td>
<td>Rejection of Delivered Supply Products</td>
<td>13</td>
</tr>
<tr>
<td>5.4</td>
<td>Non-Conforming Supply Products</td>
<td>14</td>
</tr>
<tr>
<td>5.5</td>
<td>Recall</td>
<td>14</td>
</tr>
<tr>
<td>5.6</td>
<td>Quality Procedures</td>
<td>14</td>
</tr>
<tr>
<td>5.7</td>
<td>Regulatory Communications</td>
<td>15</td>
</tr>
</tbody>
</table>
Section 10.1. By the Manufacturer.
Section 10.2. By the Buyer.
Section 10.3. Procedures.
Section 10.4. Insurance.
Section 10.5. Limitations.

Article XI.

INTELLECTUAL PROPERTY RIGHTS

Section 11.1. License.
Article XII.

MISCELLANEOUS

Section 12.1. Assignment.  
Section 12.2. Severability.  
Section 12.3. Notices.  
Section 12.4. Applicable Law.  
Section 12.5. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL.  
Section 12.6. Entire Agreement.  
Section 12.7. Headings.  
Section 12.8. Independent Contractors.  
Section 12.9. Intentionally Omitted 
Section 12.10. Waiver.  
Section 12.11. Counterparts.  
Section 12.12. No Benefit to Third Parties.

Exhibits and Schedules

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Specifications</td>
</tr>
<tr>
<td>3.2(d)</td>
<td>Initial Firm Order</td>
</tr>
<tr>
<td>3.2(f)</td>
<td>Certain Products</td>
</tr>
<tr>
<td>4.1(a)</td>
<td>Minimum Shelf Life</td>
</tr>
<tr>
<td>6.1</td>
<td>Transfer Prices and Batch Quantities</td>
</tr>
</tbody>
</table>

iii
SUPPLY AGREEMENT

This Supply Agreement (this “Supply Agreement”), dated as of June 20, 2016, by and between Impax Laboratories, Inc., a Delaware corporation (“Buyer”), and Teva Pharmaceutical Industries Ltd., an Israeli corporation, acting directly or through its Affiliates (“Teva” or the “Manufacturer”).

WITNESSETH:

WHEREAS, the United States Federal Trade Commission (“FTC”) Staff has raised the concern that the proposed acquisition (the “Proposed Allergan Transaction”) of certain businesses and assets of Allergan plc (“Allergan”) by Teva pursuant to that Master Purchase Agreement dated as of July 26, 2015, by and between Allergan and Teva, as it may be amended from time to time (the “Master Purchase Agreement”), may produce anti-competitive effects in the alleged relevant product market(s) in the United States for the generic pharmaceutical on-market products listed on Schedule 6.1 (as such products are more specifically identified in this Supply Agreement), which would not be in the public interest, including, but not limited to, by eliminating competition between Teva and Allergan;

WHEREAS, in order to resolve the concerns raised by the FTC Staff in these alleged product markets in the United States, Teva has agreed to divest certain assets relating to these products to the Buyer, to permit the Buyer to replace the lost competition by manufacturing, marketing and selling the generic products referred to above into the respective alleged product markets;

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated as of the date hereof, by and between the Buyer and the Manufacturer (the “Asset Purchase Agreement”), the Buyer purchased certain assets relating to the Supply Products (the “Acquisition”);

WHEREAS, in connection with the Acquisition, the Buyer desires to engage the Manufacturer to manufacture and/or supply the Supply Products to the Buyer on a transitional basis, and to provide the Buyer with ample opportunity to establish its own Manufacturing capabilities, whether directly or through a third-party, upon the terms and subject to the conditions set forth herein;

WHEREAS, the Manufacturer wishes to manufacture and/or supply the Supply Products to the Buyer upon the terms and subject to the conditions set forth herein;

WHEREAS, concurrently with the execution of this Supply Agreement, certain Persons who will be Affiliates of Manufacturer as of the Closing entered into a supply agreement with the Buyer related to the Order (the “Other Supply Agreement”), pursuant to which (i) the Buyer agrees to engage the Affiliates of Manufacturer as of the Closing to manufacture and/or supply the Supply Products (as defined in the Other Supply Agreement) to the Buyer on a transitional basis, and to provide the Buyer with ample opportunity to establish its own Manufacturing (as defined in the Other Supply Agreement) capabilities, whether directly or through a third party, all upon the terms and conditions set forth therein and (ii) the Affiliates of
Manufacturer as of the Closing agree to Manufacture (as defined in the Other Supply Agreement) and/or supply the Supply Products (as defined in the Other Supply Agreement) to the Buyer upon the terms and subject to the conditions set forth therein; and

WHEREAS, the FTC has or is about to issue an Order governing the scope, nature, extent and requirements of this Supply Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article I.

DEFINITIONS

Section 1.1. Definitions.

Any capitalized terms or any other terms specifically defined in the Asset Purchase Agreement and used herein will have the meaning ascribed to them in the Asset Purchase Agreement, unless otherwise expressly set forth below or herein. As used herein the words “including” or “includes” shall be deemed to mean “including, without limitation,” or “includes, without limitation”.

As used in this Supply Agreement, the following terms will have the meanings ascribed to them below:

(a) “[****] Customers” means the retailers, wholesalers, and distributors whose [****] in units, of that Supply Product to U.S. customers during the [****] period prior to the date hereof.
(b) “Actual Manufacturing Costs” has the meaning set forth in Section 6.1.
(c) “ANDA” means the abbreviated new drug application for each Supply Product as approved by the FDA.
(d) “API” means active pharmaceutical ingredient.
(e) “Asset Purchase Agreement” has the meaning set forth in the Recitals.
(f) “[****]” has the meaning set forth in Section 6.2(a).
(g) “Buyer Taxes” has the meaning set forth in Section 6.4.
(h) “Buyer Trademark” has the meaning set forth in Section 11.1.
(i) “cGMP Requirements” means the FDA’s current good manufacturing practice requirements as promulgated under the FFDCA at 21 C.F.R. (parts 11, 210 and 211), and as further defined by FDA guidance documents, as such may be amended from time to time.
(j) “COA” has the meaning set forth in Section 3.3(b).
(k) “COC” has the meaning set forth in Section 3.3(b).
(l) “Extended Term” has the meaning set forth in Section 7.1.

[****] - Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(n) “Firm Order” has the meaning set forth in Section 3.2.

(o) “[****]”[****].

(p) “Force Majeure” has the meaning set forth in Section 8.1.

(q) “Forecast” has the meaning set forth in Section 3.1.

(r) “Forms” has the meaning set forth in Section 12.6.

(s) “FTC Interim Monitor” means the monitor appointed by the FTC pursuant to the Decision and Order in In the Matter of Teva Pharmaceutical Industries Ltd. in 2016 relating to the Proposed Allergan Transaction.

(t) “[****].” has the meaning set forth in Section 6.1.

(u) “Initial Term” has the meaning set forth in Section 7.1.

(v) “Manufacturer” has the meaning set forth in the preamble.

(w) “Manufacturing” or “Manufactured” means the manufacture and packaging of Supply Products, including, without limitation, mix, fill and finish.

(x) “Master Purchase Agreement” has the meaning set forth in the recitals.

(y) “[****].” means the [****].

(z) “Party” or “Parties” means the Manufacturer and/or the Buyer, as applicable.

(aa) “Purchase Order Date” has the meaning set forth in Section 3.2(a).

(bb) “[****].” means the [****].

(cc) “Specifications” means the requirements and standards for the Supply Products set forth on Schedule 1.1, as amended or supplemented in accordance with this Supply Agreement.

(dd) “Successful Product Technology Transfer” has the meaning set forth in Section 7.1.

(ee) “Supply Agreement” has the meaning set forth in the preamble.

(ff) “Supply Failure” means, [****], the inability of Manufacturer to supply at least [****] percent ([****]%) of ordered quantities of Supply Product to Buyer for a period of at least [****] following the confirmed delivery date set forth in a Firm Order.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Supply Products” means the generic pharmaceutical on-market Supply Products listed on Schedule 6.1 that are to be supplied by the Manufacturer to the Buyer hereunder.

“Term” has the meaning set forth in Section 7.1.

“Transfer Prices” means the amount(s) to be paid by the Buyer to the Manufacturer pursuant to Section 6.1 and as may be adjusted from time to time pursuant to Section 6.2.

Section 1.2. Incorporation by Reference and Supremacy of FTC Order

(a) Incorporation of FTC Order. The Parties hereby agree and acknowledge that the terms and provisions of the Order of the FTC shall govern this Supply Agreement. The terms and provisions of the Order that pertain to this Supply Agreement are hereby deemed incorporated by reference into this Supply Agreement.

(b) Supremacy of FTC Order. To the extent that any term or provision of this Supply Agreement conflicts with any corresponding term or provision of the Order, the Parties hereby agree that the terms or provisions of the Order shall control the rights and obligations of the Parties.

(c) Supremacy of Certain Terms and Provisions of this Supply Agreement. Notwithstanding the application of Section 1.2(b), above, the Parties hereby agree that to the extent that any terms or provisions of this Supply Agreement do not conflict with the Order, but confer greater rights or benefits to the Buyer, or more greatly obligate the Manufacturer, than the corresponding terms or provisions of the Order, then the terms or provisions of this Supply Agreement shall control the rights and obligations of the Parties.

Article II.

MANUFACTURE AND SALE OF SUPPLY PRODUCTS

Section 2.1. Engagement.

During the Term and upon the terms and subject to the conditions set forth herein, the Buyer hereby agrees to purchase from Manufacturer and the Manufacturer agrees to supply the Supply Products to Buyer for sale by Buyer in the Territory. The Manufacturer shall have the right to subcontract its obligations under this Supply Agreement to a third party; provided, however that the Manufacturer shall be responsible for all the acts and omissions of the subcontractor and no subcontract shall release the Manufacturer from its responsibility for its obligations under this Supply Agreement.
Section 2.2. Sale and Distribution.

The Buyer will sell the Supply Products only in the Territory and will not directly or indirectly sell or otherwise distribute the Supply Products outside of the Territory. The Buyer shall have the sole and exclusive right to determine all terms and conditions of sale by it of the Supply Products.

Section 2.3. Packaging and Labeling.

Supply Products and all labeling and packaging used in connection therewith shall include the appropriate product trademarks associated with any specific Supply Product, in the manner and to the extent specified in the Specifications. The Buyer will be responsible for ensuring the accuracy of all information contained on all labels for Supply Products and for the compliance of all such labels with applicable Governmental Rules. The Manufacturer will, or will cause its contractors to, supply all packaging and labels for Supply Products under this Supply Agreement. Such packaging and labels will be in accordance with the Specifications. The Manufacturer will make any changes to labeling and packaging specifications required in writing by the Buyer, at the Buyer’s sole cost and expense, within a reasonable timeframe to be agreed upon in writing by both Parties. The Buyer will be responsible for submitting any such changes to all applicable Governmental Entities for approval, if required, and the Manufacturer shall provide all support and documents reasonably necessary in this regard.

Section 2.4. Facility Maintenance; Inspection; Reports.

(a) The Manufacturer shall, at all times, maintain and operate, or cause its contractors to maintain and operate, all facilities where Supply Products are manufactured, packaged, tested, stored, warehoused or shipped, and implement such quality control procedures, as is reasonably required so as to be able to perform its obligations hereunder in accordance with all applicable Governmental Rules, including without limitation, the cGMP Requirements. Not more than [****] (or more often for follow-up audits or inspections directed at significant or critical quality issues observed during the regular audit or brought to the Buyer’s attention through customer complaints or claims or by Governmental Entities), the Manufacturer shall permit, or cause its contractors to permit, quality assurance representatives of the Buyer or designated third parties to inspect such facilities, operations, documents, and records related to the handling, manufacture, testing, inspection, packaging, storage, disposal and transportation of the Supply Products by the Manufacturer or the applicable contractor upon reasonable notice (which shall not be less than [****]), during normal business hours and on a confidential basis. The Manufacturer shall also permit, and cause its contractors to permit, representatives of the FDA to inspect such facilities as requested by the FDA. The Manufacturer shall promptly provide, or cause its contractor to provide, the Buyer with a copy of any FDA Form 483s received at the conclusion of an inspection relating to any Supply Product or any facility where any Supply Product is Manufactured (to the extent the observation affects the Manufacture of the Supply Product).

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) The Manufacturer shall maintain adequate and accurate records consistent with the applicable Specifications, including records covering quality control testing and release of the Supply Products and all other Manufacturing services provided hereunder in material compliance with the cGMP Requirements and any other relevant Governmental Rules, at all times during the performance of the Manufacturing services and for a period as required by Governmental Rules.

(c) The Manufacturer shall promptly notify Buyer of any FDA inspection of the Manufacturing facilities (but in any event no later than [****] after the commencement of such inspection) if such inspection pertains to any Supply Product and, in such case, shall make all such records available to the FDA as required by applicable Governmental Rules. The Manufacturer shall promptly notify Buyer of any such disclosure and shall provide copies of any records made available to FDA, but only if and to the extent the same relate to the Supply Products and the Manufacturer’s obligations hereunder (redacted as appropriate to reflect any confidential information of the Manufacturer and its other customers); provided that any such disclosure shall be for this limited purpose and Buyer shall hold such information in confidence, and may not share any such information with any third parties except as required by a Governmental Entity or by Governmental Rules.

(d) Subject to the foregoing record maintenance requirement and only with respect to any Supply Product that is supplied by the Manufacturer, the Manufacturer shall notify Buyer before destroying any records developed under this Supply Agreement and maintained in accordance with Section 2.4(b), it being understood that in respect of any Supply Product that is supplied by the Manufacturer pursuant to a retained ANDA, the Manufacturer shall only be required to notify Buyer before destroying any records to the extent the records relate to the Supply Products purchased by Buyer under this Supply Agreement. In such case, Buyer shall have the option of having the records shipped to Buyer in accordance with Buyer’s reasonable instructions and at Buyer’s sole cost and expense. Buyer shall also have the option, at any time not later than [****] after the termination date of this Supply Agreement, of having one copy of any records developed under this Supply Agreement shipped to Buyer in accordance with Buyer’s reasonable instructions and at Buyer’s sole cost and expense.

Section 2.5. Adverse Events.

Prior to the Closing Date the Parties shall each assign a representative to negotiate in good faith and agree on a process and procedure for sharing adverse event information which shall be documented in a pharmacovigilance agreement which the Parties shall use commercially reasonable efforts to agree upon and execute prior to the Closing Date. Pending adoption of such agreement, the Parties shall implement a transition plan for exchange of any and all information concerning adverse events related to use of the Supply Products regardless of source, and the Parties shall ensure compliance with legal requirements.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article III.

FORECASTS, ORDERS AND SHIPMENT

Section 3.1. Forecasts.

In order to assist in the planning of production runs for the Supply Products, the Buyer will, within [****] following the execution of this Supply Agreement, provide the Manufacturer with a non-binding written forecast of estimated quantities of Supply Product that the Buyer anticipates ordering from the Manufacturer during the next [****] period (the “Forecast”). This initial Forecast will be updated monthly [****] basis and such updated Forecast will be promptly delivered to the Manufacturer by the Buyer; provided that, in any updated Forecast, Buyer may not [****]. The Buyer will forecast [****]. Each Forecast will be made by the Buyer in good faith, taking into account reasonable projections of demand for the Supply Products including, without limitation, demand in line with prescription trends, and allowing for reasonable safety stock. The Manufacturer shall use its commercially reasonable efforts to ensure sufficient manufacturing capacity to meet the Forecast.

Section 3.2. Orders.

(a) The Buyer will place firm purchase orders (“Firm Orders”) for Supply Products in writing for delivery at least [****] after the Purchase Order Date. The Manufacturer shall accept or reject each Firm Order in writing within [****] after its receipt of each order, it being understood that the Manufacturer may reject a Firm Order [****]. Each Firm Order will specifically refer to this Supply Agreement [****]. Except with respect to the initial Firm Order as set forth on Schedule 3.2(d) hereto, each Firm Order shall cover the Buyer’s desired quantity of the Supply Products for the [****] period immediately following the applicable delivery date. The minimum size of any order placed by the Buyer with respect to a Supply Product will be a [****], except with the advance approval of the Manufacturer. The Supply Products set forth in Firm Orders will be delivered to such location as the Manufacturer designates in writing to the Buyer from time to time. The date an order will be deemed placed (the “Purchase Order Date”) will be the date that the Manufacturer actually receives the purchase order form. The Buyer will be fully responsible for any changes to a Firm Order. Firm Orders will be deemed accepted by the Manufacturer unless the Manufacturer rejects a Firm Order for reasons constituting a Force Majeure or for the failure of a Firm Order to comply with the provisions of this Supply Agreement and provides notification of such rejection to the Buyer within [****] Days of receipt of the Firm Order. In the event that a Firm Order is so rejected, the Manufacturer shall provide to Buyer the reasons for rejection in writing and the Manufacturer and the Buyer will cooperate in good faith to promptly resolve any supply issues raised by such order. The Manufacturer shall use reasonable best efforts to timely supply any Supply Products in accordance with the resolution of a rejected Firm Order.

(b) The Manufacturer will supply the Supply Products in accordance with each Firm Order placed pursuant to the terms of this Supply Agreement by the Buyer and accepted by the Manufacturer including the quantities and delivery dates requested in each Firm

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Order. Each Firm Order will set forth a delivery date, not less than [****] after the date of such order. In the event delivery of Supply Products pursuant to a Firm Order is delayed by more than [ ****], the Buyer will be entitled to revise its forecasts and reschedule orders under Section 3.1 and this Section 3.2 to address such delay in a reasonable manner without penalty of any kind whatsoever; provided, however, that any revision shall not be deemed a waiver by the Buyer of any claim for a breach of this Section 3.2(b) by the Manufacturer.

(c) Notwithstanding any other provisions to the contrary herein or in the Asset Purchase Agreement, the Manufacturer in its sole discretion may supply or cause its Affiliate to supply Buyer with the Supply Products listed on Schedule 6.1 from a facility approved as a Manufacturing site under the applicable ANDA or NDA retained by the Manufacturer or an Affiliate, and the Parties shall cooperate with each other to effectuate any changes to the labeling, packaging or ANDA or NDA that may be required due to such fulfillment from the alternate Manufacturing site.

(d) The initial Firm Order is attached as Schedule 3.2(d) hereto. The Manufacturer will deliver the Supply Products subject to the initial Firm Order no later than [****] following the Closing Date.

(e) [****]. Except as otherwise provided in Section 3.2(f), this Section 3.2(e) shall be the sole and exclusive remedy of the Buyer with respect to any such failure to timely deliver the initial Firm Order for the Supply Products by the Manufacturer under this Supply Agreement (including through purchases of Supply Products by Buyer under Section 3.2(f), if applicable).

(f) The Parties agree that all or a portion of Manufacturer’s existing and available inventory of certain Supply Products bearing the Manufacturer’s or an Affiliate’s NDC Number as set forth on Schedule 3.2(f) or as may otherwise be agreed by the Parties may be supplied by Manufacturer in order to fulfill Buyer’s initial Firm Order with respect thereto and to enable Buyer to sell such Supply Products to third parties. Each Party’s responsibilities with respect to Medicaid Reimbursements and Rebates, returns, rebates, adverse event reporting, audits, administrative fees, chargebacks, shelf stock adjustments and similar payments and reporting obligations in connection with the sale of such Supply Products bearing the Manufacturer’s or an Affiliate’s NDC Numbers are set forth in Appendix III of the Asset Purchase Agreement.

(g) The terms of this Supply Agreement shall prevail over any conflicting, inconsistent or additional terms set forth in any Firm Order.

Section 3.3. Delivery.

(a) All Supply Products shipped under this Supply Agreement will be shipped [****] the Manufacturer’s facility or, if applicable, the designated facility of its contract manufacturer to such location designated by the Buyer in the applicable Firm Order. The [****] will pay all freight, insurance charges, taxes, import and export duties, inspection fees and other

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
charges applicable to the sale and transport of Supply Products purchased by the Buyer. Title and risk of loss and damages to Supply Products purchased by the Buyer will pass to the Buyer [****]. In the event of damage or loss to the Supply Products [****] will be responsible to file claims with the carrier. The Manufacturer shall notify Buyer of the following information concurrently with each shipment of Supply Product: (i) date of shipment, (ii) quantity and type of Supply Product shipped, and (iii) order number or other identifying information.

(b) Manufacturer shall perform quality assurance testing with respect to the Supply Products sold hereunder, including stability testing, so that the Supply Products conform with the Specifications. With each shipment of Supply Products to Buyer, Manufacturer shall provide Buyer with a Certificate of Analysis (“COA”) and a Certificate of Compliance (“COC”) confirming that the Supply Products in such shipment have been tested in accordance with the ANDAs and meet the Supply Products Specifications. The results of such testing shall accompany each COA. In addition, with each shipment of Supply Products to Buyer, Manufacturer shall provide to Buyer a COA confirming that the Supply Products in such shipment have been manufactured in accordance with all of the requirements of the Agreement and the applicable ANDA, in all material respects (without giving effect to any materiality qualifications set forth in any provision of this Supply Agreement). Any deviations and investigations related to such Supply Products shall be completed in compliance with applicable ANDA, cGMP Requirements and the Quality Agreement (as defined in Section 5.6 hereof).

(c) The Buyer represents and warrants that it will not ship Supply Product prior to the Closing Date.

**Article IV. REPRESENTATIONS AND WARRANTIES**

Section 4.1. Representations and Warranties of the Manufacturer.

The Manufacturer hereby represents and warrants to the Buyer as follows:

(a) **Supply Product Compliance.** All Supply Products delivered pursuant to this Supply Agreement by the Manufacturer (or any sub-contractor thereof) to the Buyer or its designee during the Term will at shipment be in compliance in all material respects with this Supply Agreement, the Specifications, the Quality Agreement and applicable Government Rules, including the cGMP Requirements, and the Manufacturing of such Supply Products will have been in accordance with the cGMP Requirements. At the time Manufacturer makes each shipment of Supply Product available for pick-up by Buyer (or Buyer’s carrier), the Supply Products shall: (i) not be adulterated or misbranded within the meaning of the FFDCA or within the meaning of any applicable state or municipal Law in which the definitions of adulteration and misbranding are substantially the same as those contained in the FFDCA, as such FFDCA and such Laws are constituted and in effect at the time of delivery; (ii) not be an article that may not be introduced into interstate commerce under the provisions of Sections 404 and 505 of the FFDCA; and (iii) have a shelf life that is not more than [****] into the product expiration,
provided, however, that with respect to the initial Firm Order, for Supply Products that have a normal shelf life [***], such Supply Products will have a minimum remaining shelf life of not less than [***], except with respect to the Supply Products set forth on Schedule 4.1(a), which shall have a minimum shelf life as set forth therein.

(b) **Authorization.** This Supply Agreement has been duly executed and delivered by the Manufacturer and, assuming due execution and delivery by the Buyer, constitutes a valid and binding obligation, enforceable against the Manufacturer in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other Laws relating to creditors’ rights generally and by general equitable principles. The execution, delivery and performance of this Supply Agreement have been duly authorized by all necessary action on the part of the Manufacturer and its respective officers and directors.

(c) **No Encumbrance.** Title to all Supply Products supplied to Buyer hereunder shall pass to Buyer as provided herein free and clear of all Encumbrances, other than Permitted Encumbrances.

(d) **Absence of Conflicts.** The execution, delivery and performance of this Supply Agreement by the Manufacturer does not conflict with or constitute a default under any agreement, instrument or understanding, oral or written to which it is a party or by which it may be bound, does not conflict with any provision of any of its organizational documents and does not conflict with or violate any Governmental Rule or court order or decree.

(e) **Organization and Standing.** The Manufacturer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Israel.

(f) **Power and Authority.** The Manufacturer has the corporate power and authority to execute, deliver and perform this Supply Agreement and to consummate the transactions contemplated hereby.

(g) **Compliance With Law.** Manufacturer has and will maintain throughout the term of this Supply Agreement all permits, licenses, registrations and other forms of governmental authorization and approval as required by Law in order for Manufacturer to execute and deliver this Supply Agreement and to perform its obligations hereunder in accordance with all applicable Laws.

(h) **No Debarment.** Manufacturer is not debarred and has not and will not use in any capacity the services of any person debarred under subsection 306(a) or (b) of the Generic Drug Enforcement Act of 1992. If at any time this representation and warranty is no longer accurate, Manufacturer shall promptly notify Buyer of such fact.

(i) **No Enforcement Actions.** There are no pending or, to the Knowledge of Manufacturer, threatened enforcement actions, recalls, withdrawals or notices of health or safety

[**]** = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 4.2. Representations and Warranties of the Buyer.

The Buyer hereby represents and warrants to the Manufacturer as follows:

(a) **Authorization.** This Supply Agreement has been duly executed and delivered by the Buyer and, assuming due execution and delivery by the Manufacturer, constitutes a valid and binding obligation, enforceable against the Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other Laws relating to creditors’ rights generally and by general equitable principles. The execution, delivery and performance of this Supply Agreement have been duly authorized by all necessary action on the part of the Buyer and its respective officers and directors.

(b) **Absence of Conflicts.** The execution, delivery and performance of this Supply Agreement by the Buyer does not conflict with or constitute a default under any agreement, instrument or understanding, oral or written to which it is a party or by which it may be bound, does not conflict with any provision of any organizational documents of the Buyer and does not conflict with or violate any Governmental Rule or court order or decree.

(c) **Organization and Standing.** The Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(d) **Power and Authority.** The Buyer has the corporate power and authority to execute, deliver and perform this Supply Agreement and to consummate the transactions contemplated hereby.

**Article V.**

**QUALITY ASSURANCE**

Section 5.1. The Manufacturer’s Covenants.

The Manufacturer hereby covenants during the Term that it will (and will use commercially reasonable efforts to cause its contractors to):

(a) manufacture, fill, package, test, handle, store, warehouse and ship the Supply Products in conformity with this Supply Agreement, Quality Agreement, Governmental Rules, and cGMP Requirements and the Specifications;

(b) promptly (but in any event no later than [****] after becoming aware) inform Buyer of any inspections, communications, or material issues raised by the FDA in
connection with the Manufacturing of the Supply Products, and, in each case, shall provide Buyer with copies of any correspondence (including emails) relating thereto;

(c) obtain and maintain all permits reasonably necessary to Manufacture and supply all Supply Product subject to an FDA approved ANDA in accordance with the Specifications, applicable Governmental Rules and this Supply Agreement; and

(d) if Manufacturer becomes aware of any Supply Products that have not been manufactured in accordance with the Specifications and that have been supplied, promptly take such corrective action as shall be reasonably necessary to correct such nonconformity and inform Buyer in writing.

Section 5.2. The Buyer’s Covenants

The Buyer hereby covenants during the Term that it will:

(a) hold, store, handle, ship, deliver, distribute and/or sell the Supply Products (i) in accordance with applicable cGMP Requirements and Governmental Rules, including but not limited to any risk management programs required by the FDA; and (ii) in compliance with the Specifications;

(b) enter into all necessary compliance agreements as may be reasonably designated by the Manufacturer, including but not limited to agreements to cover quality assurance and adverse incident reporting; and

(c) except in respect of the requirements set forth in Section 3.3(b) and Section 5.1 hereof, upon delivery of the Supply Products to the Buyer, the Buyer will be solely responsible for compliance with all quality control testing and other testing requirements set forth in this Supply Agreement and all related Governmental Rules with respect to such Supply Products.

Section 5.3. Rejection of Delivered Supply Products.

Within [****] of receipt by the Buyer at its applicable warehouse of any shipment of Supply Product and applicable COA and COC, the Buyer will inspect the Supply Product, COA and COC and advise the Manufacturer of any defect whereby the Supply Product does not conform to the Specifications. Any Supply Product not refused within [****] will be deemed accepted. If the Buyer wishes to refuse acceptance, the Buyer will, within such [****] period, provide written notice to the Manufacturer of its refusal to accept the defective Supply Product and the reason(s) therefor. In the event a hidden defect (i.e., one which could not have been reasonably identified during the initial [****] Buyer inspection period) is discovered at a later date whereby the Supplied Product does not conform to the Specifications, the Buyer shall inform the Manufacturer as soon as practicable after Buyer becomes aware of the alleged hidden defect. In the event that the Buyer refuses acceptance or rejects the Supply Product due to a hidden defect, the Manufacturer, upon confirmation of the reasons for refusal or rejection of the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Supply Product, will replace within [****] days or as soon as reasonably practicable the defective Supply Product at the Manufacturer’s sole cost and expense or refund the Transfer Price, at the Buyer’s option. If the Manufacturer and the Buyer do not agree on the refusal or rejection of Supply Products, then either Party may refer the matter for final analysis to [****]. [****]. Except as set out in this Section 5.3, the Manufacturer shall have no liability to Buyer for any defect (other than hidden defects) for which it has not received notice from the Buyer within the [****] Buyer inspection period or for any hidden defect for which it was not informed as soon as practicable after Buyer became aware of such hidden defect.

Section 5.4. Non-Conforming Supply Products.

Notwithstanding any other provisions of this Supply Agreement, the Buyer agrees to return to the Manufacturer (or, at Manufacturer’s direction, to its contractors) any Supply Products that do not conform with the Specifications at the time of shipment to the Buyer, or if the Buyer and the Manufacturer mutually agree, to dispose of such Supply Products as the Manufacturer may direct. The Manufacturer shall be responsible for the reasonable and documented costs associated with the return and proper disposal of all such Supply Products not in conformance with the Specifications at the time of shipment and shall promptly (and, in any event, within [****] or as soon as reasonably practicable) replace (at Manufacturer’s cost) or credit, at the option of the Buyer, such non-conforming Supply Products.

Section 5.5. Recall.

Manufacturer shall maintain traceability records in accordance with the applicable Governmental Rules, including cGMP Requirements, and in accordance with any written instructions or guidelines provided to Manufacturer by the Buyer, necessary to permit a recall, field correction or other notification to the field, of the Supply Products. Buyer, in consultation with Manufacturer, shall have the exclusive right to institute a recall and shall be responsible for managing the recall and communications with customers and Governmental Entities; provided, however, notwithstanding the preceding, that for any Supply Product supplied pursuant to an ANDA owned by Manufacturer, Manufacturer, in consultation with Buyer, shall have the exclusive right to institute a recall and shall be responsible for managing the recall and communications with customers and Governmental Entities. The Parties shall cooperate with each other in connection with any such efforts. In the event that any Supply Product is quarantined or recalled by Buyer, or is subject to stop-sale action, whether voluntary or by governmental action, it is agreed and understood that [****]. Said determination may be made by the Governmental Entity involved, or by mutual agreement of the Parties following examination and review of all records pertinent to the manufacture of the Supply Products subject to such recall.

Section 5.6. Quality Procedures.

Manufacturer and Buyer shall comply with the terms of the quality requirements set forth in a quality agreement to be negotiated in good faith by the Parties and entered into by the Parties as soon as practicable after the date hereof, but on or prior to the Closing Date (the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Quality Agreement”) with respect to the manufacture of the Supply Products. To the extent that any inconsistencies or conflicts exist between the Quality Agreement and this Supply Agreement with regard to quality requirements and compliance with Governmental Rules, the provisions in the Quality Agreement shall prevail.

Section 5.7. Regulatory Communications.

Buyer shall be responsible for communicating with the FDA regarding the Supply Products and the Manufacturing performed by Manufacturer hereunder and Manufacturer shall not initiate contact with the FDA or such other regulatory authority regarding the Supply Products or the Manufacturing without Buyer’s prior written consent, except when required by the terms of this Supply Agreement or by applicable Governmental Rules; provided, however, notwithstanding the preceding, that for any Supply Products supplied pursuant to an ANDA owned by Manufacturer, Manufacturer shall be responsible for communicating with the FDA regarding such Supply Products and the Manufacturing performed by Manufacturer hereunder and Buyer shall not initiate contact with the FDA or such other regulatory authority regarding the Supply Products or the Manufacturing without Manufacturer’s prior written consent, except when required by the terms of this Supply Agreement or by applicable Governmental Rules. Each Party shall provide reasonable assistance to the other Party upon such Party’s reasonable request, and at the requesting party’s sole cost and expense, with respect to such regulatory communications.

Article VI.

PRICE AND PAYMENTS

Section 6.1. Prices.

The prices payable by the Buyer for each of the Supply Products will be the prices set forth on Schedule 6.1 and will be adjusted pursuant to Section 6.2 (the “Initial Price” and as may be adjusted pursuant to Section 6.2, the “Transfer Price”). The prices for the Supply Products set forth on Schedule 6.1 are [*] determined on a [*] in U.S. dollars over the [*] as the sum of the [*] as well as [*] as determined in accordance with U.S. GAAP [*] provided that the Transfer Prices for an applicable Supply Product [*] provided further that [*].

Section 6.2. Adjustment.

(a) On each anniversary of the date Manufacturer fulfills an initial Firm Order with respect to any Supply Product, Manufacturer shall have the right to increase the Transfer Price of such Supply Product by [*].

(b) On the fourth and fifth anniversaries of the date Manufacturer fulfills an initial Firm Order with respect to any Supply Product, if the Buyer has not completed the transfer of the Product Technology (as defined in the Asset Purchase Agreement) pursuant to Section

15

[**] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
7.3(a) of the Asset Purchase Agreement, then Manufacturer shall have the right to a payment equal to [****] of total annual costs of goods for the applicable Supply Product for the immediately preceding contract year and Buyer shall promptly (and in any event within [****] of such anniversary) deliver or cause to be delivered to Manufacturer payment of such amount by wire transfer in immediately available funds, to the account or accounts designated in writing by Manufacturer to Buyer.

Section 6.3. Invoices.

The Manufacturer will send all invoices in respect of any Supply Products to a single address specified in writing by the Buyer to the Manufacturer following the date that such Supply Products subject to any Firm Order shall have been made available to the Buyer under Section 3.3(a). Payments for Supply Product sold hereunder will be made by the Buyer to the Manufacturer within [****] after the date of the invoice by check or electronic funds transmission in United States dollars as specified in any invoice, without any offset or deduction of any nature whatsoever. Notwithstanding the foregoing, the Parties acknowledge that the Manufacturer shall not invoice the Buyer, and the Buyer shall have no obligation to make payment hereunder, prior to the Closing Date. All payments will be made to such account as the Manufacturer will have specified in writing to the Buyer with written confirmation of payment sent by facsimile to such address as the Manufacturer will have specified in writing to the Buyer. If the Buyer fails to pay any undisputed invoiced amount when due, a service charge will be imposed by the Manufacturer equal to [****] that such undisputed amount is overdue. For the avoidance of doubt, Buyer will not have any obligation to make any payment in respect of the initial Firm Order if the Asset Purchase Agreement is terminated prior to the Closing Date.

Section 6.4. Taxes, etc.

The Buyer will bear solely the cost of any taxes, levies, duties or fees of any kind, nature or description whatsoever applicable to the sale and transportation of Supply Product sold by the Manufacturer to the Buyer (“Buyer Taxes”), and the Buyer will forthwith pay to the Manufacturer all such sums upon demand. Manufacturer and Buyer shall cooperate with each other and use their commercially reasonable efforts to obtain any certificate or other document from any person as may be necessary to mitigate, reduce or eliminate any such Buyer Taxes.

Section 6.5. Separate Sale.

Each shipment of Supply Product to the Buyer will constitute a separate sale, obligating the Buyer to pay therefor, whether said shipment is in whole or only partial fulfillment of any order or confirmation issued in connection therewith.

Section 6.6. Deductions.

Except as otherwise required by applicable Law, the Buyer agrees not to make any deductions of any kind from any payments becoming due to the Manufacturer unless the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Buyer will have received prior written authorization from the Manufacturer authorizing such deduction.

Article VII.

TERM AND TERMINATION

Section 7.1. Term.

The provisions of this Supply Agreement will commence on the date hereof and will expire on the second (2\textsuperscript{nd}) anniversary of the Closing Date unless earlier terminated in accordance with this Article VII (the “Initial Term”). On a Supply Product-by-Supply Product basis, prior to the date on which (i) Buyer has successfully completed the transfer of the Product Technology pursuant to Section 7.3(a) of the Asset Purchase Agreement and (ii) Buyer has begun independent manufacture or supply and sales of the applicable Supply Product (“Successful Product Technology Transfer”), this Supply Agreement may be extended three (3) times at the request of the Buyer (the Buyer having provided at least [****] written notice prior to the expiration of the Initial Term to the Manufacturer) for an additional one (1) year term, subject to approval of the FTC Staff or the FTC Interim Monitor, and subject to earlier termination in accordance with this Article VII (the “Extended Term” and together with the Initial Term, the “Term”).

Section 7.2. Termination.

Either the Manufacturer, on the one hand, or the Buyer, on the other hand, as applicable, will have the right to terminate this Supply Agreement with immediate effect (except as otherwise stated below) upon written notice to the other upon the occurrence of the following:

(a) the Manufacturer, on the one hand, or the Buyer, on the other hand, files a petition in bankruptcy, or enters into an agreement with its creditors, or applies for or consents to the appointment of a receiver or trustee, or makes an assignment for the benefit of creditors, or becomes subject to involuntary proceedings under any bankruptcy or insolvency Law; or

(b) the Manufacturer, on the one hand, or the Buyer, on the other hand, fails to cure any non-compliance with any of the terms and conditions hereof within the time period specified in any prior written notice (which will be at least [****]) delivered to the non-compliant Party by another Party; provided; however, that the Manufacturer shall be permitted to terminate under this Section 7.2(b) only for the Buyer’s failure to pay amounts due to the Manufacturer pursuant to this Supply Agreement and not disputed in good faith by Buyer (it being understood that any amounts due for Supply Product rejected pursuant to Section 5.3 shall be deemed to be disputed in good faith); or

(c) if the Buyer believes it has sufficient alternative supply of any Supply Product to meet its needs, then the Buyer may terminate this Supply Agreement with respect to such Supply Product upon [****] prior written notice to the Manufacturer; or

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(d) except as specifically provided in Section 7.2(b), the Manufacturer shall not have any right to terminate its supply obligations under this Supply Agreement as a result of any breach by the Buyer; provided, however, that the Manufacturer shall be entitled to seek all other remedies available at Law or in equity; or

(e) if the Parties mutually agree in writing to terminate this Supply Agreement, following the provision of prior notice to the FTC Staff or the FTC Interim Monitor; or

(f) with respect to each Supply Product, upon the Successful Product Technology Transfer such that the Buyer has sufficient alternative supply of such Supply Product to meet its needs, then either Party may terminate this Supply Agreement with respect to such Supply Product upon [****] prior written notice to the other Party; or

(g) termination of the Asset Purchase Agreement pursuant to Section 11.1(a) thereof.

Section 7.3. Effects of Termination.

If this Supply Agreement is terminated pursuant to Section 7.2:

(a) The Buyer acknowledges and agrees that the Manufacturer will be entitled to cancel any Firm Order accepted prior to the effective date of termination with respect to any such Supply Product subject to such termination, and will not be obligated to supply any such Supply Products ordered by the Buyer pursuant to such Firm Order, with respect to such Supply Products to be delivered after the effective date of the termination; provided that with respect to a termination by Buyer pursuant to Section 7.2(b) or Section 7.2(c), Manufacturer will only be entitled to cancel any Firm Order accepted as of a date that is within [****] prior to the effective date of termination. In addition, the Buyer shall purchase from the Manufacturer all quantities of components, materials, APIs and work-in-progress in the Manufacturer’s, its Affiliates’ and third party manufacturers’ possession that were reasonably purchased or produced in connection with such parties’ obligations to manufacture Supply Products and are not reasonably allocable to or usable for other activities being carried out by the Manufacturer or its Affiliates [****], which amount shall be payable no later than [****] after receipt thereof by the Buyer. In the event the Supply Agreement is terminated pursuant to Section 7.2(c), the provisions of this Section 7.3(a) will apply only with respect to the Supply Products for which the Supply Agreement has been terminated.

(b) If the termination is by Manufacturer due to a default by Buyer in the payment of any amount owed hereunder to the Manufacturer when due, then all of the liabilities and obligations of the Buyer to the Manufacturer, whether then due or not, will become immediately due and payable, and Manufacturer will be entitled to cancel any Firm Order then outstanding and will not be obligated to supply any Supply Products ordered by the Buyer pursuant to such Firm Order.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(c) Subject to Section (a) and (b) hereof, termination or expiration of this Supply Agreement for any reason will not relieve the Parties of any obligation accruing prior to such termination or expiration (including in respect of any Firm Orders); provided, however, the Buyer will not have any obligation to make any payment in respect of the initial Firm Order if this Supply Agreement shall be terminated prior to the Closing Date. The rights and obligations of the Parties under Sections 5.5, 7.3, Article IX, Article X and Article XII of this Supply Agreement will survive the expiration or termination of this Supply Agreement.

(d) It is understood and agreed that the Buyer will be responsible for all Manufacturing of the Supply Products after the earlier of the termination (in accordance with the terms hereof) or expiration of this Supply Agreement. In addition, it is understood and agreed that the Buyer will be responsible [****], except as otherwise required pursuant to the terms of the Asset Purchase Agreement.

Article VIII.

FORCE MAJEURE

Section 8.1. Force Majeure.

Neither Party will be deemed to have defaulted under or breached this Supply Agreement for failure or delay in fulfilling or performing any term or provision of this Supply Agreement (other than the payment of money) when such failure or delay will be caused (directly or indirectly) by a circumstance beyond the reasonable control of the affected Party, including, without limitation, fire; flood; accident; explosion; terrorism, sabotage; strike, or any labor disturbance (regardless of the reasonableness of the demands of labor); civil commotions; riots; invasions; wars (present or future); acts, restraints, requisitions, regulations, or directions of any Governmental Entity, except where such acts, restraints, requisitions, regulations or directions are the result of a Party’s negligence or willful actions; voluntary or mandatory compliance by the Manufacturer with any request for material represented to be for purposes of (directly or indirectly) producing articles for national defense or national defense facilities; shortage of labor, fuel, power, or raw materials; inability to obtain supplies; failures of normal sources of supplies; inability to obtain or delays of transportation facilities; any act of God; any act of the other Party or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of such Party (each a “Force Majeure”). Any Party asserting its inability to perform any obligation hereunder for any such contingency shall promptly notify the other Party of the existence of any such contingency and shall use commercially reasonable efforts to mitigate such contingency and re-commence its performance of such obligation as soon as commercially practicable. Subject to this Section 8.1, if the Manufacturer is unable to supply the Buyer with its requirements of Supply Products by reason of Force Majeure, Force Majeure shall excuse the Manufacturer’s performance until the Force Majeure has ceased and for a reasonable period of time thereafter, to allow the Manufacturer to restore itself to the position it was in with respect to the Supply Products immediately prior to the Force Majeure. Within [****] of notification by the Manufacturer that it is able to resume the necessary supply of the Supply Products to the Buyer, the Buyer shall resume obtaining Supply Products from the Manufacturer.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
pursuant to the terms of this Supply Agreement; however, in respect of any Firm Orders for the Supply Products the delivery of which was during such Force Majeure period, parties shall discuss in good faith the requirements of the Buyer and delivery of such Supply Products. Neither Party shall suffer penalty or incur any liability for its inability to perform hereunder by reason of Force Majeure. If a Party fails to perform any of its obligations under this Supply Agreement by reason of Force Majeure and such non-performance continues for a period of [****] from the first occurrence of the event of Force Majeure, the other party may terminate this Supply Agreement with respect to any Supply Product that is directly related to, or the subject of, such Force Majeure event by providing written notice to that effect to the non-performing party. In the event of such termination, both parties' respective rights and obligations under this Supply Agreement shall terminate with respect to such Supply Product except for any amounts previously due and owing by one party to the other and except for any other obligations which this Supply Agreement expressly provides shall survive termination.

Article IX.

CONFIDENTIALITY

Section 9.1. Non-disclosure and Non-use Obligation.

Each Party or its Affiliates or contractors may, from time to time, prior to or after the date hereof, disclose to the other Party information of a technical or non-technical nature that is not generally known to the trade or public. Each Party agrees that it will not use for any purpose other than as necessary to perform its obligations under this Supply Agreement, and will not disclose to anyone in any manner whatsoever, any such information including, without limitation, information relating in any way to the products, processes, and services of each Party or its Affiliates or contractors, which becomes known to the other Party on or prior to the date of the termination or expiration of this Supply Agreement. The obligations of this Section 9.1 will not apply to information (i) that is known to a Party as shown by written records prior to its disclosure by the Manufacturer or its contractors; (ii) that becomes public information or is generally available to the public other than by an unauthorized act or omission of the other Party; or (iii) that is received by a Party from third parties who are in rightful possession of such information and who are lawfully entitled to disclose such information and did not receive such information from the other Party. From and after the Closing Date, the Transferred Assets and all confidential information relating solely and exclusively to the Transferred Assets or the manufacture thereof shall be considered confidential information of Buyer under this Section 9.1 and the obligations of this Section 9.1 in respect thereof will apply to the Manufacturer and will not apply to Buyer; provided, however, to the extent such confidential information is also used by Manufacturer in the retained business thereof or in fulfilling its obligations under this Supply Agreement, such confidential information shall constitute the confidential information of both Parties. Upon the termination or expiration of this Supply Agreement, each Party will return or destroy (with written confirmation thereof) to the other Party all documents that include confidential information of each Party or its contractors (other than, in the case of the Buyer, upon termination of this Supply Agreement).
Agreement after the Closing Date or expiration of this Supply Agreement, the Transferred Assets), including all copies of such documents or extracts therefrom, if any, and will make no further use of such information.

Article X.

INDEMNIFICATION

Section 10.1. By the Manufacturer.

From and after the Closing Date, the Manufacturer will indemnify, defend and hold harmless, and pay and reimburse, the Buyer and its Affiliates and their respective officers, directors, employees, agents, advisors and shareholders from and against any and all Losses resulting from any claim by a third party to the extent and only to the extent attributable to the Manufacturer’s gross negligence, willful misconduct or breach of any of its representations and warranties, covenants, agreements or obligations contained in this Supply Agreement.

Section 10.2. By the Buyer.

From and after the Closing Date, the Buyer will indemnify, defend and hold harmless, and pay and reimburse, the Manufacturer and its Affiliates and their respective officers, directors, employees, agents, advisors and shareholders from and against any and all Losses resulting from any claim by a third party (a) to the extent and only to the extent attributable to the Buyer’s gross negligence, willful misconduct or breach of any of its representations and warranties, covenants, agreements or obligations contained in this Supply Agreement; or (b) regarding any Supply Product sold by Buyer or its Affiliates from and after the Closing Date, including but not limited to (i) any claim for patent infringement, personal injury, death or property damage or (ii) the use of the Supply Products by any person; provided, however, that the Buyer shall not be liable for any Losses to the extent arising from the Manufacturer’s negligence or breach of its representations and warranties, covenants, agreements or obligations contained herein.

Section 10.3. Procedures.

In the event of any claims for indemnification made by one Party against the other Party under this Section 10, the procedure to be used for the administration and resolution of such claims will be as set forth in Section 12.5 of the Asset Purchase Agreement.

Section 10.4. Insurance.

At all times from the Closing Date through that date which is [****] after the termination or expiration of this Supply Agreement, each of the Buyer and the Manufacturer will maintain product liability insurance (or self insurance), which is reasonable and customary in the USA pharmaceutical industry for companies of comparable size, provided that in no event shall the product liability insurance amounts be [****] per year. Each of the Buyer and the Manufacturer shall provide written proof of such insurance to the other Party upon request.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 10.5. Limitations.

(a) In no event shall either Party be liable by reason of any breach of any representation, warranty, condition or other term of this Supply Agreement or any duty of common law, for any consequential, special, indirect, or incidental or punitive loss or damage (whether for loss of current or future profits, loss of enterprise value or otherwise), and each Party agrees that it shall not make any such claim; provided, however, that the foregoing does not limit any of the obligations or liability of (i) either Party or its Affiliates under Sections 10.1 and 10.2 with respect to (1) claims for indemnity of unrelated third parties, (2) liability arising from fraud of a Party or its Affiliates and (3) with respect to Manufacturer’s breach of its obligations pursuant to Section 3.2 and Section 5.3, liability arising from fraud, intentional breach or willful misconduct of a Party or its Affiliates or (ii) Manufacturer for a Supply Failure due to the gross negligence of Manufacturer.

(b) Notwithstanding any other provision of this Supply Agreement, in the event that the Buyer asserts or claims that the Manufacturer has breached any of its obligations hereunder or that the Manufacturer is liable pursuant to Section 10.1, [****].

Article XI.

INTELLECTUAL PROPERTY RIGHTS

Section 11.1. License.

The Buyer hereby grants to the Manufacturer for the Term of this Supply Agreement, a royalty-free, non-exclusive, non-transferable, right and license under the Transferred Assets, as applicable in the Territory to manufacture and supply the Supply Products for the Buyer. This license is sublicencable by the Manufacturer to contractors which the Manufacturer may cause to manufacture and supply the Supply Products.

To the extent that any of the Supply Products are marketed under a trademark or housemark of the Buyer (“Buyer Trademark”), Buyer hereby grants to the Manufacturer a revocable, non-assignable and non-exclusive license to apply and affix the Buyer Trademark on or in relation to the Supply Products manufactured for the Buyer hereunder; provided, however that nothing herein contained shall give or be deemed to give or shall be intended to give the Manufacturer any right, title, interest or claim in or to the Buyer Trademark.

Article XII.

MISCELLANEOUS

Section 12.1. Assignment.

Neither Party may assign its rights or obligations under this Supply Agreement without the prior written consent of the other Party and the FTC Staff or the FTC Interim

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Monitor; provided, however, that after the Closing Date either Party may assign its rights and obligations under this Supply Agreement, without the prior written consent of the other Party, to an Affiliate or to a successor of the assigning Party by reason of merger, sale of all or substantially all of its assets or the portion of its business which relates to a Supply Product or any number of the Supply Products, or any similar transaction. Any permitted assignee or successor-in-interest will assume all obligations of its assignor under this Supply Agreement. No assignment will relieve either Party of its responsibility for the performance of any obligation. This Supply Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Notwithstanding anything to the contrary contained herein, for the avoidance of doubt, Manufacturer shall be permitted to delegate and assign any portion of its obligations hereunder to any of its Affiliates without the prior written consent of Buyer; provided that such delegation and assignment will not relieve Manufacturer of its responsibility for the performance of any such obligation.

Section 12.2. Severability.

If any provision of this Supply Agreement is held to be illegal, invalid or unenforceable by any Law or public policy, the remaining provisions of this Supply Agreement will nevertheless remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom as long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either Party. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties will negotiate reasonably and in good faith to modify this Supply Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible, subject to the approval of the FTC Staff or the FTC Interim Monitor.

Section 12.3. Notices.

All notices and other communications required or permitted to be given or made pursuant to this Supply Agreement shall be in writing signed by the sender and shall be deemed duly given (a) on the date delivered, if personally delivered, (b) on the date sent by telecopier with automatic confirmation by the transmitting machine showing the proper number of pages were transmitted without error, (c) on the Business Day after being sent by Federal Express or another recognized overnight mail service which utilizes a written form of receipt for next day or next Business Day delivery or (d) two (2) Business Days after mailing, if mailed by United States postage-prepaid certified or registered mail, return receipt requested, in each case addressed to the applicable Party at the address set forth below; provided that a Party may change its address for receiving notice by the proper giving of notice hereunder:

(a) if to the Buyer, to:

Impax Laboratories, Inc.
31047 Genstar Road

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Hayward, CA 94544
Attn: General Counsel
Facsimile No.: (510) 240-6096

With a copy (which shall not constitute notice) to:
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Attn: Francis J. Aquila
Matthew G. Hurd
Facsimile No.: (212) 291-9004 / (212) 291-9076

(b) if to the Manufacturer, to:
Teva Pharmaceutical Industries Ltd.
5 Basel Street
P.O.B. 3190
Petach Tikvah, Israel
Attention: Dror Bashan
Email: Dror.Bashan@teva.co.il

and
Teva Pharmaceutical USA, Inc.
425 Privet Road
PO Box 1005
Horsham, PA 19044 U.S.A
Attention: General Counsel
Fax: (215) 293-6499

with a copy (which shall not constitute notice) to:
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Daniel E. Wolf
Facsimile: (212) 446-6460

and
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Attention: Mark Kovner
Facsimile: (202) 879-5200
[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
It is understood and agreed that this Section 12.3 is not intended to govern the ordinary course business communications necessary between the Parties in performing their duties, in due course, under the terms of this Supply Agreement, including the placement of orders and the delivery of forecasts.

Section 12.4. Applicable Law.

This Supply Agreement and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the laws of the State of New York, U.S.A. applicable to agreements made and to be performed entirely in such state.

Section 12.5. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL.

(a) The Buyer and the Manufacturer agree to irrevocably submit to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A., for the purposes of any suit, action or other proceeding arising out of this Supply Agreement or any transaction contemplated hereby. Each Party agrees to commence any such action, suit or proceeding either in the United States District Court for the Southern District of New York, U.S.A. or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each Party further agrees that service of any process, summons, notice or document by U.S. registered mail or recognized international courier service to such Party’s respective address set forth in Section 12.3 of this Supply Agreement shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction in this Supply Agreement. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Supply Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A.

(b) THE BUYER AND THE MANUFACTURER HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS SUPPLY AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS SUPPLY AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE PARTIES TO THIS SUPPLY AGREEMENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES TO THIS SUPPLY AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS SUPPLY AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 12.6. Entire Agreement.

This Supply Agreement and the attached Schedules, which are incorporated herein, along with the Asset Purchase Agreement and the Schedules and Exhibits thereto, constitute the entire agreement between the Parties with respect to the subject matter hereof and all prior agreements with respect hereto are superseded. Each Party confirms that it is not relying on any representations, warranties, covenants or understandings of any kind, nature or description whatsoever of the other Party, except such as are as specifically set forth herein or in the Asset Purchase Agreement. No amendment or modifications hereof will be binding upon the Parties unless set forth in a writing specified to be an explicit amendment to this Supply Agreement duly executed by authorized representatives of each of the Parties, and subject to the approval of the FTC Staff or the FTC Interim Monitor. The Parties recognize that, during the Term of this Supply Agreement, a purchase order, acknowledgement form or similar routine document (collectively “Forms”) may be used to implement or administer provisions of this Supply Agreement. Therefore, the Parties agree that the terms of this Supply Agreement, as it may be amended, will prevail in the event of any conflict between this Supply Agreement and the printed provision of such Forms, or typed provisions of Forms that add to, vary, modify or are in conflict with the provisions of this Supply Agreement with respect to the Supply Products sold during the Term of this Supply Agreement.

Section 12.7. Headings.

The headings used in this Supply Agreement are intended for convenience only and will not be considered part of the written understanding among the Parties and will not affect the construction of this Supply Agreement.

Section 12.8. Independent Contractors.

The relationship between the Manufacturer, on the one hand, and the Buyer, on the other hand, is solely that of buyer and seller. It is expressly agreed that the Manufacturer, on the one hand, and the Buyer, on the other hand, will be independent contractors and that neither the relationship among the Parties nor this Supply Agreement will be construed as creating a partnership, joint venture or agency. Neither the Manufacturer, on the one hand, nor the Buyer, on the other hand, will have the authority to make any statements, representations or commitments of any kind, or to take any action or to incur any liability or obligation which will be binding on the other, without the prior consent of the other Party to do so. All persons

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
employed by a Party will be employees of such Party and not of the other Party and all costs and obligations incurred by reason of any such employment will be for the account and expense of such Party.

Section 12.9.  Intentionally Omitted

Section 12.10.  Waiver.

The waiver by either Party of any right hereunder or the failure to perform or of a breach by the other Party will not be deemed a waiver of any other right hereunder or of any other or subsequent breach or failure by said other Party whether of a similar nature or otherwise.

Section 12.11.  Counterparts.

This Supply Agreement may be executed in counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

Section 12.12.  No Benefit to Third Parties.

The representations, warranties, covenants and agreements set forth in this Supply Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any person or entity any legal or equitable rights, benefits or remedies.

[signature page follows]

27

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, the parties hereto have caused this Supply Agreement to be signed by their respective representatives thereunto duly authorized, all as of the date first written above.

TEVA PHARMACEUTICALS INDUSTRIES LTD.

By: /s/ Dror Bashan
Name: Dror Bashan
Title: SVP, Head of M&A, Global BD

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson
Name: G. Frederick Wilkinson
Title: President, Chief Executive Officer

[Supply Agreement]
Schedule 1.1 – Specifications

[****]

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
### Initial Order Quantity

<table>
<thead>
<tr>
<th>Product Description</th>
<th>PO Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Schedule 3.2(f) - Certain Supply Products

<table>
<thead>
<tr>
<th>Product Description</th>
<th>Seller Label</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
<tr>
<td></td>
<td>[****]</td>
</tr>
</tbody>
</table>

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Schedule 4.1(a) - Minimum Shelf Life

[****]

[****]

[****]

[****]

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
### Schedule 6.1 - Transfer Prices and Batch Quantities

<table>
<thead>
<tr>
<th>SKU</th>
<th>Brand Name</th>
<th>CPU ($)</th>
<th>Supply Site of Initial Order</th>
<th>Batch Size</th>
<th>Supply Site of Remaining Tech-transfer Period</th>
<th>Batch Size</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
<table>
<thead>
<tr>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
<th>[****]</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

*Estimate to updated upon launch

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
THIS AMENDMENT NO. 1 TO THE SUPPLY AGREEMENT (this “Amendment”) is dated as of June 30, 2016, by and between Impax Laboratories, Inc., a Delaware corporation (“Buyer”) and Teva Pharmaceutical Industries Ltd., an Israeli corporation, acting directly or through its Affiliates (“Manufacturer”).

WITNESSETH:

WHEREAS, Buyer and the Manufacturer executed that certain Supply Agreement, dated June 20, 2016 (as amended, restated, waived or otherwise modified, the “Supply Agreement”); and

WHEREAS, the Parties have agreed to amend certain terms of the Supply Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Any capitalized term used in this Amendment shall have the meaning designated for the capitalized term in the Supply Agreement unless otherwise defined in this Amendment. The term “Supply Agreement” used in the Supply Agreement shall hereafter refer to the Supply Agreement, as amended by this Amendment.

2. Amendment of the Supply Agreement. The Supply Agreement is hereby amended as follows (with deleted text shown as stricken and new text shown as double underlined):

   (a) The following terms are hereby added to Section 1.1 of the Supply Agreement:

   ““Cure Period” means [****] following Manufacturer’s receipt of notice from Buyer of a Supply Failure.”

   ““Customer” means any third party who purchases the Supply Product from the Buyer pursuant to a written agreement between the Buyer and such third party.”

   ““Customer Penalties” means the aggregate penalties the Buyer incurs from its Customers, directly related to actual worth of the quantities of Supply Products subject to the applicable Supply Failure (which quantities shall not exceed [****] supply of the applicable Supply Products) as evidenced by written records, as a result of the Manufacturer’s Supply Failure, which amount generally represents [****].”

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Wholesale Acquisition Cost” means, with respect to a Supply Product, [****].”

(b) Section 7.2(a) of the Supply Agreement is hereby amended in its entirety to read as follows:

“(a) [reserved]”

(c) Section 7.2(b) of the Supply Agreement is hereby amended in its entirety to read as follows:

“(b) the Manufacturer, on the one hand, or the Buyer, on the other hand, fails to cure any non-compliance with any of the terms and conditions hereof within the time period specified in any prior written notice (which will be at least [****]) delivered to the non-compliant Party by another Party; provided, however, that the Manufacturer shall be permitted to terminate under this Section 7.2(b) upon [****] prior written notice to the FTC only for the Buyer’s failure to pay amounts due to the Manufacturer pursuant to this Supply Agreement and not disputed in good faith by Buyer (it being understood that any amounts due for Supply Product rejected pursuant to Section 5.3 shall be deemed to be disputed in good faith) unless the FTC Staff objects to such termination in writing to the Manufacturer within [****] of the receipt of such notice to the FTC, in which case Manufacturer shall not be permitted to terminate and shall continue to supply under the terms and conditions hereof, but Manufacturer may require the Buyer to place any disputed amounts due into an escrow account until such time as an agreement over these amounts between the Manufacturer and the Buyer is reached or adjudicated; or”

(d) Section 10.5 of the Supply Agreement is hereby amended and restated in its entirety to read as follows:

“(a) In no event shall either Party be liable by reason of any breach of any representation, warranty, condition or other term of this Supply Agreement or any duty of common law, for any consequential, special, indirect, or incidental or punitive loss or damage (whether for loss of current or future profits, loss of enterprise value or otherwise), and each Party agrees that it shall not make any such claim; provided, however, that the foregoing does not limit any of the obligations or liability of (i) either Party or its Affiliates under Sections 10.1 and 10.2 with respect to (1) claims for indemnity of unrelated third parties, (2) liability arising from fraud of a Party or its Affiliates and (3) with respect to Manufacturer’s breach of its obligations pursuant to Section 3.2 and Section 5.3, liability arising from fraud, intentional breach or willful misconduct of a Party or its Affiliates or (ii) Manufacturer for a Supply Failure due to the gross negligence of such Manufacturer; provided however, solely with respect to clause (ii) that Manufacturer shall only be subject to liability for consequential, special, indirect or incidental or punitive loss or damage where (A) the Supply Failure is the result of Manufacturer’s fraud, willful misconduct, or gross negligence; or (B) the Supply Failure is the result of the Manufacturer’s negligence

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
and Manufacturer has not used its commercially reasonable best efforts to cure the Supply Failure during the Cure Period; provided further that in no event shall Manufacturer be liable with respect to any customer penalties due to any such Supply Failure under (A) or (B), above, other than the Customer Penalties.

(b) Notwithstanding any other provision of this Supply Agreement, in the event that the Buyer asserts or claims that the Manufacturer has breached any of its obligations hereunder or that the Manufacturer is liable pursuant to Section 10.1, [****]."

3. Miscellaneous.

   (a) **Effectiveness of Amendment.** This Amendment shall become effective upon the date hereof. In the event of any inconsistency or conflict between the Supply Agreement and this Amendment, the terms, conditions and provisions of this Amendment shall govern and control.

   (b) **General Provisions.** Article XII of the Supply Agreement shall apply to this Amendment, *mutatis mutandis*.

   * * * * * * *

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, this Amendment has been executed and delivered by the parties hereto effective as of the date first above written.

**TEVA PHARMACEUTICAL INDUSTRIES LTD.**

By: /s/ Dror Bashan  
Name: Dror Bashan  
Title: SVP, Head of M&A, Global BD

By: /s/ Eyal Desheh  
Name: Eyal Desheh  
Title: Executive Vice President, Chief Financial Officer

**IMPAX LABORATORIES, INC.**

By: /s/ G. Frederick Wilkinson  
Name: G. Frederick Wilkinson  
Title: President, Chief Executive Officer

[Signature Page to Impax-Teva Supply Agreement Amendment]
SUPPLY AGREEMENT

AMONG

ACTAVIS ELIZABETH LLC
ACTAVIS GROUP PTC EHF
ACTAVIS HOLDCO US, INC.
ACTAVIS LLC
ACTAVIS MID ATLANTIC LLC
ACTAVIS PHARMA, INC.
ACTAVIS SOUTH ATLANTIC LLC
ANDRX LLC
BREATHT LTD.
THE RUGBY GROUP, INC.
WATSON LABORATORIES, INC.

AND

IMPAX LABORATORIES, INC.

DATED AS OF

JUNE 20, 2016
# TABLE OF CONTENTS

Article I. DEFINITIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1. Definitions.</td>
<td>3</td>
</tr>
<tr>
<td>1.2. Incorporation by Reference and Supremacy of FTC Order</td>
<td>5</td>
</tr>
</tbody>
</table>

Article II.

MANUFACTURE AND SALE OF SUPPLY PRODUCTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1. Engagement.</td>
<td>5</td>
</tr>
<tr>
<td>2.2. Sale and Distribution.</td>
<td>6</td>
</tr>
<tr>
<td>2.3. Packaging and Labeling.</td>
<td>6</td>
</tr>
<tr>
<td>2.4. Facility Maintenance; Inspection; Reports.</td>
<td>6</td>
</tr>
<tr>
<td>2.5. Adverse Events.</td>
<td>7</td>
</tr>
</tbody>
</table>

Article III.

FORECASTS, ORDERS AND SHIPMENT

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1. Forecasts.</td>
<td>8</td>
</tr>
<tr>
<td>3.2. Orders.</td>
<td>8</td>
</tr>
<tr>
<td>3.3. Delivery.</td>
<td>9</td>
</tr>
</tbody>
</table>

Article IV.

REPRESENTATIONS AND WARRANTIES

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1. Representations and Warranties of the Manufacturer.</td>
<td>10</td>
</tr>
<tr>
<td>4.2. Representations and Warranties of the Buyer.</td>
<td>12</td>
</tr>
</tbody>
</table>

Article V.

QUALITY ASSURANCE

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1. The Manufacturers’ Covenants.</td>
<td>12</td>
</tr>
<tr>
<td>5.2. The Buyer’s Covenants</td>
<td>13</td>
</tr>
<tr>
<td>5.3. Rejection of Delivered Supply Products.</td>
<td>13</td>
</tr>
<tr>
<td>5.4. Non-Conforming Supply Products.</td>
<td>14</td>
</tr>
<tr>
<td>5.5. Recall.</td>
<td>14</td>
</tr>
<tr>
<td>5.6. Quality Procedures.</td>
<td>15</td>
</tr>
<tr>
<td>5.7. Regulatory Communications.</td>
<td>15</td>
</tr>
</tbody>
</table>
Article VI.
PRICE AND PAYMENTS 15

Section 6.1. Prices. 15
Section 6.2. Adjustment. 15
Section 6.3. Invoices. 16
Section 6.4. Taxes, etc. 16
Section 6.5. Separate Sale. 16
Section 6.6. Deductions. 17

Article VII.
TERM AND TERMINATION 17

Section 7.1. Term. 17
Section 7.2. Termination. 17
Section 7.3. Effects of Termination. 18

Article VIII.
FORCE MAJEURE 19

Section 8.1. Force Majeure. 19

Article IX.
CONFIDENTIALITY 20

Section 9.1. Non-disclosure and Non-use Obligation. 20

Article X.
INDEMNIFICATION 21

Section 10.1. By the Manufacturers. 21
Section 10.2. By the Buyer. 21
Section 10.3. Procedures. 21
Section 10.4. Insurance. 22
Section 10.5. Limitations. 22

Article XI.
INTELLECTUAL PROPERTY RIGHTS 22
Section 12.1. Assignment.  
Section 12.2. Severability.  
Section 12.3. Notices.  
Section 12.4. Applicable Law.  
Section 12.5. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL.  
Section 12.6. Entire Agreement.  
Section 12.7. Headings.  
Section 12.8. Independent Contractors.  
Section 12.9. Allergan  
Section 12.10. Waiver.  
Section 12.11. Counterparts.  
Section 12.12. No Benefit to Third Parties.  

Exhibits and Schedules  
Schedule 1.1 Specifications  
Schedule 3.2(d) Initial Firm Order  
Schedule 3.2(f) Certain Products  
Schedule 4.1(a) Minimum Shelf Life  
Schedule 6.1 Transfer Prices and Batch Quantities
SUPPLY AGREEMENT

This Supply Agreement (this “Supply Agreement”), dated as of June 20, 2016, by and among Impax Laboratories, Inc., a Delaware corporation (“Buyer”), Actavis Elizabeth LLC, a Delaware limited liability company (“Actavis Elizabeth”), Actavis Group PTC Ehf., an Iceland einkahlutafelag (“Actavis PTC”), Actavis Holdco US, Inc., a Delaware corporation (“Actavis Holdco”), Actavis LLC, a Delaware limited liability company (“Actavis LLC”), Actavis Mid Atlantic LLC, a Delaware limited liability company (“Actavis Mid Atlantic”), Actavis Pharma, Inc., a Delaware corporation (“Actavis Pharma”), Actavis South Atlantic LLC, a Delaware limited liability company (“Actavis South Atlantic”), Andrx LLC, a Delaware limited liability company (“Andrx”), Breath Ltd., a United Kingdom private limited company (“Breath”), The Rugby Group, Inc., a New York corporation (“Rugby”), and Watson Laboratories, Inc., a Nevada corporation (“Watson” and, together with Actavis Elizabeth, Actavis PTC, Actavis Holdco, Actavis LLC, Actavis Mid Atlantic, Actavis Pharma, Actavis South Atlantic, Andrx, Breath and Rugby, each a “Manufacturer” and, collectively, the “Manufacturers”).

WITNESSETH:

WHEREAS, the United States Federal Trade Commission (“FTC”) Staff has raised the concern that the proposed acquisition (the “Proposed Allergan Transaction”) of certain businesses and assets of Allergan plc (“Allergan”) by Teva Pharmaceutical Industries Ltd. (“Teva”) pursuant to that Master Purchase Agreement dated as of July 26, 2015, by and between Allergan and Teva, as it may be amended from time to time (the “Master Purchase Agreement”), may produce anti-competitive effects in the alleged relevant product market(s) in the United States for the generic pharmaceutical on-market and pipeline products listed on Schedule 6.1 (as such products are more specifically identified in this Supply Agreement), which would not be in the public interest, including, but not limited to, by eliminating competition between Teva and Allergan;

WHEREAS, in order to resolve the concerns raised by the FTC Staff in these alleged product markets in the United States, Teva has agreed to divest certain assets relating to these products to the Buyer, to permit the Buyer to replace the lost competition by manufacturing, marketing and selling the generic products referred to above into the respective alleged product markets;

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated as of the date hereof, by and between the Buyer and the Manufacturers (the “Asset Purchase Agreement”), the Buyer purchased certain assets relating to the Supply Products (the “Acquisition”);

WHEREAS, in connection with the Acquisition, the Buyer desires to engage the Manufacturers to manufacture and/or supply the Supply Products to the Buyer on a transitional basis, and to provide the Buyer with ample opportunity to establish its own Manufacturing capabilities, whether directly or through a third-party, upon the terms and subject to the conditions set forth herein;

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
WHEREAS, the Manufacturers wish to manufacture and/or supply the Supply Products to the Buyer upon the terms and subject to the conditions set forth herein;

WHEREAS, concurrently with the execution of this Supply Agreement, a certain Person who will be an Affiliate of Manufacturers as of the Closing entered into a supply agreement with the Buyer related to the Order (the “Other Supply Agreement”), pursuant to which (i) the Buyer agrees to engage such Affiliate of the Manufacturers as of the Closing to manufacture and/or supply the Supply Products (as defined in the Other Supply Agreement) to the Buyer on a transitional basis, and to provide the Buyer with ample opportunity to establish its own Manufacturing (as defined in the Other Supply Agreement) capabilities, whether directly or through a third party, all upon the terms and conditions set forth therein and (ii) such Affiliate of the Manufacturers as of the Closing agrees to Manufacture (as defined in the Other Supply Agreement) and/or supply the Supply Products (as defined in the Other Supply Agreement) to the Buyer upon the terms and subject to the conditions set forth therein; and

WHEREAS, the FTC has or is about to issue an Order governing the scope, nature, extent and requirements of this Supply Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article I.

DEFINITIONS

Section 1.1. Definitions

Any capitalized terms or any other terms specifically defined in the Asset Purchase Agreement and used herein will have the meaning ascribed to them in the Asset Purchase Agreement, unless otherwise expressly set forth below or herein. As used herein the words “including” or “includes” shall be deemed to mean “including, without limitation,” or “includes, without limitation”.

As used in this Supply Agreement, the following terms will have the meanings ascribed to them below:

(a) “[****] Customers” means the retailers, wholesalers, and distributors whose [****], in units, of that Supply Product to U.S. customers during the [****] period prior to the date hereof.
(b) “Actual Manufacturing Costs” has the meaning set forth in Section 6.1.
(c) “ANDA” means the abbreviated new drug application for each Supply Product as approved by the FDA.
(d) “API” means active pharmaceutical ingredient.
(e) “Asset Purchase Agreement” has the meaning set forth in the Recitals.
(f) “[****]” has the meaning set forth in Section 6.2(a).
(g) “Buyer Taxes” has the meaning set forth in Section 6.4.
(h) “Buyer Trademark” has the meaning set forth in Section 11.1.
(i) “cGMP Requirements” means the FDA’s current good manufacturing practice requirements as promulgated under the FFDCA at 21 C.F.R. (parts 11, 210 and 211), and as further defined by FDA guidance documents, as such may be amended from time to time.
(j) “COA” has the meaning set forth in Section 3.3(b).
(k) “COC” has the meaning set forth in Section 3.3(b).
(l) “Extended Term” has the meaning set forth in Section 7.1.
(n) “Firm Order” has the meaning set forth in Section 3.2.
(o) “[****]” has the meaning set forth in 3.1.
(p) “Force Majeure” has the meaning set forth in Section 8.1.
(q) “Forecast” has the meaning set forth in Section 3.1.
(r) “Forms” has the meaning set forth in Section 12.6.
(s) “FTC Interim Monitor” means the monitor appointed by the FTC pursuant to the Decision and Order in In the Matter of Teva Pharmaceutical Industries Ltd. in 2016 relating to the Proposed Allergan Transaction.
(t) “[****]” has the meaning set forth in Section 6.1.
(u) “Initial Term” has the meaning set forth in Section 7.1.
(v) “Manufacturer” or “Manufacturers” has the meaning set forth in the preamble.
(w) “Manufacturing” or “Manufactured” means the manufacture and packaging of Supply Products, including, without limitation, mix, fill and finish.
(x) “Master Purchase Agreement” has the meaning set forth in the recitals.
(y) “[****]” means the [****].
(z) “Party” or “Parties” means the Manufacturers and/or the Buyer, as applicable.
(aa) “Purchase Order Date” has the meaning set forth in Section 3.2(a).
(bb) “[****]” means the [****].
(cc) “Specifications” means the requirements and standards for the Supply Products set forth on Schedule 1.1, as amended or supplemented in accordance with this Supply Agreement.
(dd) “Successful Product Technology Transfer” has the meaning set forth in Section 7.1
(ee) “Supply Agreement” has the meaning set forth in the preamble.
(ff) “Supply Failure” means, [****] the inability of the Manufacturers to supply at least [****] percent ([****]%) of ordered quantities of Supply Product to Buyer for a period of at least [****] following the confirmed delivery date set forth in a Firm Order.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Supply Pipeline Product” means the Supply Product [****], then such Supply Product will cease being a Supply Pipeline Product hereunder and under the Asset Purchase Agreement.

“Supply Products” means the generic pharmaceutical on-market and pipeline Supply Products listed on Schedule 6.1 that are to be supplied by the Manufacturers to the Buyer hereunder.

“Term” has the meaning set forth in Section 7.1.

“Transfer Prices” means the amount(s) to be paid by the Buyer to each Manufacturer pursuant to Section 6.1 and as may be adjusted from time to time pursuant to Section 6.2.

Section 1.2. Incorporation by Reference and Supremacy of FTC Order

(a) Incorporation of FTC Order. The Parties hereby agree and acknowledge that the terms and provisions of the Order of the FTC shall govern this Supply Agreement. The terms and provisions of the Order that pertain to this Supply Agreement are hereby deemed incorporated by reference into this Supply Agreement.

(b) Supremacy of FTC Order. To the extent that any term or provision of this Supply Agreement conflicts with any corresponding term or provision of the Order, the Parties hereby agree that the terms or provisions of the Order shall control the rights and obligations of the Parties.

(c) Supremacy of Certain Terms and Provisions of this Supply Agreement. Notwithstanding the application of Section 1.2(b), above, the Parties hereby agree that to the extent that any terms or provisions of this Supply Agreement do not conflict with the Order, but confer greater rights or benefits to the Buyer, or more greatly obligate the Manufacturers, than the corresponding terms or provisions of the Order, then the terms or provisions of this Supply Agreement shall control the rights and obligations of the Parties.

Article II.

MANUFACTURE AND SALE OF SUPPLY PRODUCTS

Section 2.1. Engagement.

During the Term and upon the terms and subject to the conditions set forth herein, the Buyer hereby agrees to purchase from the Manufacturers, and the Manufacturers agree to supply the Supply Products to Buyer for sale by Buyer in the Territory. The Manufacturers shall have the right to subcontract their obligations under this Supply Agreement to a third party; provided, however that the Manufacturers shall be responsible for all the acts and omissions of the subcontractor and no subcontract shall release the Manufacturers from their respective responsibilities for their obligations under this Supply Agreement.
Section 2.2. Sale and Distribution.

The Buyer will sell the Supply Products only in the Territory and will not directly or indirectly sell or otherwise distribute the Supply Products outside of the Territory. The Buyer shall have the sole and exclusive right to determine all terms and conditions of sale by it of the Supply Products.

Section 2.3. Packaging and Labeling.

Supply Products and all labeling and packaging used in connection therewith shall include the appropriate product trademarks associated with any specific Supply Product, in the manner and to the extent specified in the Specifications. The Buyer will be responsible for ensuring the accuracy of all information contained on all labels for Supply Products and for the compliance of all such labels with applicable Governmental Rules. Each Manufacturer will, or will cause its contractors to, supply all packaging and labels for Supply Products under this Supply Agreement. Such packaging and labels will be in accordance with the Specifications. Each Manufacturer will make any changes to labeling and packaging specifications required in writing by the Buyer, at the Buyer’s sole cost and expense, within a reasonable timeframe to be agreed upon in writing by both Parties. The Buyer will be responsible for submitting any such changes to all applicable Governmental Entities for approval, if required, and the Manufacturers shall provide all support and documents reasonably necessary in this regard.

Section 2.4. Facility Maintenance; Inspection; Reports.

(a) Each Manufacturer shall, at all times, maintain and operate, or cause its contractors to maintain and operate, all facilities where Supply Products are manufactured, packaged, tested, stored, warehoused or shipped, and implement such quality control procedures, as is reasonably required so as to be able to perform its obligations hereunder in accordance with all applicable Governmental Rules, including without limitation, the cGMP Requirements. Not more than [****] (or more often for follow-up audits or inspections directed at significant or critical quality issues observed during the regular audit or brought to the Buyer’s attention through customer complaints or claims or by Governmental Entities), each Manufacturer shall permit, or cause its contractors to permit, quality assurance representatives of the Buyer or designated third parties to inspect such facilities, operations, documents, and records related to the handling, manufacture, testing, inspection, packaging, storage, disposal and transportation of the Supply Products by each Manufacturer or the applicable contractor upon reasonable notice (which shall not be less than [****]), during normal business hours and on a confidential basis. Each Manufacturer shall also permit, and cause its contractors to permit, representatives of the FDA to inspect such facilities as requested by the FDA. Each Manufacturer shall promptly provide, or cause its contractor to provide, the Buyer with a copy of any FDA Form 483s received at the conclusion of an inspection relating to any Supply Product sold by it or any facility where any Supply Product is Manufactured (to the extent the observation affects the Manufacture of the Supply Product).

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Each Manufacturer shall maintain adequate and accurate records consistent with the applicable Specifications, including records covering quality control testing and release of the Supply Products and all other Manufacturing services provided hereunder in material compliance with the cGMP Requirements and any other relevant Governmental Rules, at all times during the performance of the Manufacturing services and for a period as required by Governmental Rules.

Each Manufacturer shall promptly notify Buyer of any FDA inspection of the Manufacturing facilities (but in any event no later than [* ***] after the commencement of such inspection) if such inspection pertains to any Supply Product and, in such case, shall make all such records available to the FDA as required by applicable Governmental Rules. Each Manufacturer shall promptly notify Buyer of any such disclosure and shall provide copies of any records made available to FDA, but only if and to the extent the same relate to the Supply Products and such Manufacturer’s obligations hereunder (redacted as appropriate to reflect any confidential information of such Manufacturer and its other customers); provided that any such disclosure shall be for this limited purpose and Buyer shall hold such information in confidence, and may not share any such information with any third parties except as required by a Governmental Entity or by Governmental Rules.

Subject to the foregoing record maintenance requirement and only with respect to any Supply Product that is supplied by a Manufacturer, such Manufacturer shall notify Buyer before destroying any records developed under this Supply Agreement and maintained in accordance with Section 2.4(b), it being understood that in respect of any Supply Product that is supplied by such Manufacturer pursuant to a retained ANDA, such Manufacturer shall only be required to notify Buyer before destroying any records to the extent the records relate to the Supply Products purchased by Buyer under this Supply Agreement. In such case, Buyer shall have the option of having the records shipped to Buyer in accordance with Buyer’s reasonable instructions and at Buyer’s sole cost and expense. Buyer shall also have the option, at any time not later than [* ***] after the termination date of this Supply Agreement, of having one copy of any records developed under this Supply Agreement shipped to Buyer in accordance with Buyer’s reasonable instructions and at Buyer’s sole cost and expense.

Section 2.5. Adverse Events.

Prior to the Closing Date the Parties shall each assign a representative to negotiate in good faith and agree on a process and procedure for sharing adverse event information which shall be documented in a pharmacovigilance agreement which the Parties shall use commercially reasonable efforts to agree upon and execute prior to the Closing Date. Pending adoption of such agreement, the Parties shall implement a transition plan for exchange of any and all information concerning adverse events related to use of the Supply Products regardless of source, and the Parties shall ensure compliance with legal requirements.

[* ***] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article III.

FORECASTS, ORDERS AND SHIPMENT

Section 3.1. Forecasts.

In order to assist in the planning of production runs for the Supply Products, the Buyer will, within [****] following the execution of this Supply Agreement, provide each Manufacturer with a non-binding written forecast of estimated quantities of Supply Product that the Buyer anticipates ordering from each such Manufacturer during the next [****] period (the “Forecast”). This initial Forecast will be updated monthly [****] basis and such updated Forecast will be promptly delivered to each Manufacturer by the Buyer; provided that, in any updated Forecast, Buyer may not [****]. The Buyer will forecast [****]. Each Forecast will be made by the Buyer in good faith, taking into account reasonable projections of demand for the Supply Products including, without limitation, demand in line with prescription trends, and allowing for reasonable safety stock. Each Manufacturer shall use its commercially reasonable efforts to ensure sufficient manufacturing capacity to meet the Forecast.

Section 3.2. Orders.

(a) The Buyer will place firm purchase orders (“Firm Orders”) for Supply Products in writing for delivery at least [****] after the Purchase Order Date. Each applicable Manufacturer shall accept or reject each Firm Order in writing within [****] after its receipt of each order, it being understood that the Manufacturer may reject a Firm Order [****]. Each Firm Order will specifically refer to this Supply Agreement [****]. Except with respect to the initial Firm Order as set forth on Schedule 3.2(d) hereto, each Firm Order shall cover the Buyer’s desired quantity of the Supply Products for the [****] period immediately following the applicable delivery date. The minimum size of any order placed by the Buyer with respect to a Supply Product will be [****], except with the advance approval of such Manufacturer. The Supply Products set forth in Firm Orders will be delivered to such location as the applicable Manufacturers designate in writing to the Buyer from time to time. The date an order will be deemed placed (the “Purchase Order Date”) will be the date that such Manufacturer actually receives the purchase order form. The Buyer will be fully responsible for any changes to a Firm Order. Firm Orders will be deemed accepted by such Manufacturer unless it rejects a Firm Order for reasons constituting a Force Majeure or for the failure of a Firm Order to comply with the provisions of this Supply Agreement and provides notification of such rejection to the Buyer within [****] of receipt of the Firm Order. In the event that a Firm Order is so rejected, such Manufacturer shall provide to Buyer the reasons for rejection in writing and such Manufacturer and the Buyer will cooperate in good faith to promptly resolve any supply issues raised by such order. Each Manufacturer shall use reasonable best efforts to timely supply any Supply Products in accordance with the resolution of a rejected Firm Order.

(b) Each applicable Manufacturer will supply the Supply Products in accordance with each Firm Order placed pursuant to the terms of this Supply Agreement by the Buyer and accepted by such Manufacturer including the quantities and delivery dates requested.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
in each Firm Order. Each Firm Order will set forth a delivery date, not less [****] after the date of such order. In the event delivery of Supply Products pursuant to a Firm Order is delayed by more than [****], the Buyer will be entitled to revise its forecasts and reschedule orders under Section 3.1 and this Section 3.2 to address such delay in a reasonable manner without penalty of any kind whatsoever; provided, however, that any revision shall not be deemed a waiver by the Buyer of any claim for a breach of this Section 3.2(b) by the applicable Manufacturer.

(c) Notwithstanding any other provisions to the contrary herein or in the Asset Purchase Agreement, each Manufacturer in its sole discretion may supply or cause its Affiliates to supply Buyer with the Supply Products listed on Schedule 6.1 from a facility approved as a Manufacturing site under the applicable ANDA or NDA retained by the Manufacturers or their Affiliates, and the Parties shall cooperate with each other to effectuate any changes to the labeling, packaging or ANDA or NDA that may be required due to such fulfillment from the alternate Manufacturing site.

(d) The initial Firm Order is attached as Schedule 3.2(d) hereto. The Manufacturers will deliver the Supply Products subject to the initial Firm Order no later than [****] following the Closing Date.

(e) Except as otherwise provided in Section 3.2(f), this Section 3.2(e) shall be the sole and exclusive remedy of the Buyer with respect to any such failure to timely deliver the initial Firm Order for the Supply Products by any Manufacturer under this Supply Agreement (including through purchases of Supply Products by Buyer under Section 3.2(f), if applicable).

(f) The Parties agree that all or a portion of each Manufacturer’s existing and available inventory of certain Supply Products bearing such Manufacturer’s or its Affiliate’s NDC Number as set forth on Schedule 3.2(f) or as may otherwise be agreed by the Parties may be supplied by such Manufacturer in order to fulfill Buyer’s initial Firm Order with respect thereto and to enable Buyer to sell such Supply Products to third parties. Each Party’s responsibilities with respect to Medicaid Reimbursements and Rebates, returns, rebates, adverse event reporting, audits, administrative fees, chargebacks, shelf stock adjustments and similar payments and reporting obligations in connection with the sale of such Supply Products bearing such Manufacturer’s or its Affiliate’s NDC Numbers are set forth in Appendix III of the Asset Purchase Agreement.

(g) The terms of this Supply Agreement shall prevail over any conflicting, inconsistent or additional terms set forth in any Firm Order.

Section 3.3. Delivery.

(a) All Supply Products shipped under this Supply Agreement will be shipped [****] the relevant Manufacturer’s facility or, if applicable, the designated facility of its contract manufacturer to such location designated by the Buyer in the applicable Firm Order. The [****] will pay all freight, insurance charges, taxes, import and export duties, inspection fees and other

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
charges applicable to the sale and transport of Supply Products purchased by the Buyer. Title and risk of loss and damages to Supply Products purchased by the Buyer will pass to the Buyer [****]. In the event of damage or loss to the Supply Products [****] will be responsible to file claims with the carrier. Each Manufacturer shall notify Buyer of the following information concurrently with each shipment of Supply Product by such Manufacturer: (i) date of shipment, (ii) quantity and type of Supply Product shipped, and (iii) order number or other identifying information.

(b) Each Manufacturer shall perform quality assurance testing with respect to the Supply Products sold by it hereunder, including stability testing, so that the Supply Products conform with the Specifications. With each shipment of Supply Products to Buyer, the Manufacturers shall provide Buyer with a Certificate of Analysis (“COA”) and a Certificate of Compliance (“COC”) confirming that the Supply Products in such shipment have been tested in accordance with the ANDAs and meet the Supply Products Specifications. The results of such testing shall accompany each COA. In addition, with each shipment of Supply Products to Buyer, the Manufacturers shall provide to Buyer a COC confirming that the Supply Products in such shipment have been manufactured in accordance with all of the requirements of the Agreement and the applicable ANDA, in all material respects (without giving effect to any materiality qualifications set forth in any provision of this Supply Agreement). Any deviations and investigations related to such Supply Products shall be complete in compliance with applicable ANDA, cGMP Requirements and the Quality Agreement (as defined in Section 5.6 hereof).

(c) The Buyer represents and warrants that it will not ship Supply Product prior to the Closing Date.

Article IV.

REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations and Warranties of the Manufacturer.

Each Manufacturer hereby represents and warrants to the Buyer as follows:

(a) Supply Product Compliance. All Supply Products delivered pursuant to this Supply Agreement by such Manufacturer (or any sub-contractor thereof) to the Buyer or its designee during the Term will at shipment be in compliance in all material respects with this Supply Agreement, the Specifications, the Quality Agreement and applicable Governmental Rules, including the cGMP Requirements, and the Manufacturing of such Supply Products will have been in accordance with the cGMP Requirements. At the time such Manufacturer makes each shipment of Supply Product available for pick-up by Buyer (or Buyer’s carrier), the Supply Products shall: (i) not be adulterated or misbranded within the meaning of the FFDCA or within the meaning of any applicable state or municipal Law in which the definitions of adulteration and misbranding are substantially the same as those contained in the FFDCA, as such FFDCA and such Laws are constituted and in effect at the time of delivery; (ii) not be an article

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
not be introduced into interstate commerce under the provisions of Sections 404 and 505 of the FFDCA; and (iii) have a shelf life that is not more than [****] into the product expiration, provided, however, that with respect to the initial Firm Order, for Supply Products that have a normal shelf life of [****], such Supply Products will have a minimum remaining shelf life of not less than [****], except with respect to the Supply Products set forth on Schedule 4.1(a), which shall have a minimum shelf life as set forth therein.

(b) **Authorization.** This Supply Agreement has been duly executed and delivered by such Manufacturer and, assuming due execution and delivery by the Buyer, constitutes a valid and binding obligation, enforceable against such Manufacturer in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other Laws relating to creditors’ rights generally and by general equitable principles. The execution, delivery and performance of this Supply Agreement have been duly authorized by all necessary action on the part of the Manufacturer and its respective officers and directors.

(c) **No Encumbrance.** Title to all Supply Products supplied by such Manufacturer to Buyer hereunder shall pass to Buyer as provided herein free and clear of all Encumbrances, other than Permitted Encumbrances.

(d) **Absence of Conflicts.** The execution, delivery and performance of this Supply Agreement by such Manufacturer does not conflict with or constitute a default under any agreement, instrument or understanding, oral or written to which it is a party or by which it may be bound, does not conflict with any provision of any of its organizational documents and does not conflict with or violate any Governmental Rule or court order or decree.

(e) **Organization and Standing.** Such Manufacturer is a corporation or other entity, duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization.

(f) **Power and Authority.** Such Manufacturer has the corporate or similar power and authority to execute, deliver and perform this Supply Agreement and to consummate the transactions contemplated hereby.

(g) **Compliance With Law.** Such Manufacturer has and will maintain throughout the term of this Supply Agreement all permits, licenses, registrations and other forms of governmental authorization and approval as required by Law in order for such Manufacturer to execute and deliver this Supply Agreement and to perform its obligations hereunder in accordance with all applicable Laws.

(h) **No Debarment.** Such Manufacturer is not debarred and has not and will not use in any capacity the services of any person debarred under subsection 306(a) or (b) of the Generic Drug Enforcement Act of 1992. If at any time this representation and warranty is no longer accurate, such Manufacturer shall promptly notify Buyer of such fact.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(i) **No Enforcement Actions.** There are no pending or, to the Knowledge of such Manufacturer, threatened enforcement actions, recalls, withdrawals or notices of health or safety risks to or from the FDA or other federal, state or foreign Governmental Entity which has jurisdiction over such Manufacturer’s operations which relate to the Supply Products sold by it.

Section 4.2. Representations and Warranties of the Buyer.

The Buyer hereby represents and warrants to each Manufacturer as follows:

(a) **Authorization.** This Supply Agreement has been duly executed and delivered by the Buyer and, assuming due execution and delivery by each Manufacturer, constitutes a valid and binding obligation, enforceable against the Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium and other Laws relating to creditors’ rights generally and by general equitable principles. The execution, delivery and performance of this Supply Agreement have been duly authorized by all necessary action on the part of the Buyer and its respective officers and directors.

(b) **Absence of Conflicts.** The execution, delivery and performance of this Supply Agreement by the Buyer does not conflict with or constitute a default under any agreement, instrument or understanding, oral or written to which it is a party or by which it may be bound, does not conflict with any provision of any organizational documents of the Buyer and does not conflict with or violate any Governmental Rule or court order or decree.

(c) **Organization and Standing.** The Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(d) **Power and Authority.** The Buyer has the corporate power and authority to execute, deliver and perform this Supply Agreement and to consummate the transactions contemplated hereby.

**Article V. QUALITY ASSURANCE**

Section 5.1. The Manufacturers’ Covenants.

Each Manufacturer hereby covenants during the Term that it will (and will use commercially reasonable efforts to cause its contractors to):

(a) manufacture, fill, package, test, handle, store, warehouse and ship the Supply Products sold by it in conformity with this Supply Agreement, Quality Agreement, Governmental Rules, and cGMP Requirements and the Specifications;

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) promptly (but in any event no later than [****] after becoming aware) inform Buyer of any inspections, communications, or material issues raised by the FDA in connection with the Manufacturing of the Supply Products sold by such Manufacturer, and, in each case, shall provide Buyer with copies of any correspondence (including emails) relating thereto;

(c) obtain and maintain all permits reasonably necessary to Manufacture and supply all Supply Product sold by it subject to an FDA approved ANDA in accordance with the Specifications, applicable Governmental Rules and this Supply Agreement; and

(d) if such Manufacturer becomes aware of any Supply Products sold by it that have not been manufactured in accordance with the Specifications and that have been supplied, promptly take such corrective action as shall be reasonably necessary to correct such nonconformity and inform Buyer in writing.

Section 5.2. The Buyer’s Covenants

The Buyer hereby covenants during the Term that it will:

(a) hold, store, handle, ship, deliver, distribute and/or sell the Supply Products (i) in accordance with applicable cGMP Requirements and Governmental Rules, including but not limited to any risk management programs required by the FDA; and (ii) in compliance with the Specifications;

(b) enter into all necessary compliance agreements as may be reasonably designated by any Manufacturer, including but not limited to agreements to cover quality assurance and adverse incident reporting; and

(c) except in respect of the requirements set forth in Section 3.3(b) and Section 5.1 hereof, upon delivery of the Supply Products to the Buyer, the Buyer will be solely responsible for compliance with all quality control testing and other testing requirements set forth in this Supply Agreement and all related Governmental Rules with respect to such Supply Products.

Section 5.3. Rejection of Delivered Supply Products.

Within [****] of receipt by the Buyer at its applicable warehouse of any shipment of Supply Product and applicable COA and COC, the Buyer will inspect the Supply Product, COA and COC and advise the applicable Manufacturer of any defect whereby the Supply Product does not conform to the Specifications. Any Supply Product not refused within [****] will be deemed accepted. If the Buyer wishes to refuse acceptance, the Buyer will, within such [****] period, provide written notice to such Manufacturer of its refusal to accept the defective Supply Product and the reason(s) therefor. In the event a hidden defect (i.e., one which could not have been reasonably identified during the initial [****] Buyer inspection period) is discovered at a later date whereby the Supplied Product does not conform to the Specifications, the Buyer shall inform such Manufacturer as soon as practicable after Buyer becomes aware of the alleged

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
hidden defect. In the event that the Buyer refuses acceptance or rejects the Supply Product due to a hidden defect, the Manufacturer, upon confirmation of the reasons for refusal or rejection of the Supply Product, will replace within [****] or as soon as reasonably practicable the defective Supply Product at such Manufacturer’s sole cost and expense or refund the Transfer Price, at the Buyer’s option. If such Manufacturer and the Buyer do not agree on the refusal or rejection of Supply Products, then any Party may refer the matter for final analysis to [****]. Except as set out in this Section 5.3, such Manufacturer shall have no liability to Buyer for any defect (other than hidden defects) for which it has not received notice from the Buyer within the [****] Buyer inspection period or for any hidden defect for which it was not informed as soon as practicable after Buyer became aware of such hidden defect.

Section 5.4. Non-Conforming Supply Products.

Notwithstanding any other provisions of this Supply Agreement, the Buyer agrees to return to the applicable Manufacturer (or, at such Manufacturer’s direction, to its contractors) any Supply Products that do not conform with the Specifications at the time of shipment to the Buyer, or if the Buyer and such Manufacturer mutually agree, to dispose of such Supply Products as such Manufacturer may direct. Such Manufacturer shall be responsible for the reasonable and documented costs associated with the return and proper disposal of all such Supply Products not in conformance with the Specifications at the time of shipment and shall promptly (and, in any event, within [****] or as soon as reasonably practicable) replace (at such Manufacturer’s cost) or credit, at the option of the Buyer, such non-conforming Supply Products.

Section 5.5. Recall.

Each Manufacturer shall maintain traceability records in accordance with the applicable Governmental Rules, including cGMP Requirements, and in accordance with any written instructions or guidelines provided to each such Manufacturer by the Buyer, necessary to permit a recall, field correction or other notification to the field, of the Supply Products. Buyer, in consultation with each such Manufacturer, shall have the exclusive right to institute a recall and shall be responsible for managing the recall and communications with customers and Governmental Entities; provided, however, notwithstanding the preceding, that for any Supply Product supplied pursuant to an ANDA owned by any such Manufacturer, Manufacturer, in consultation with Buyer, shall have the exclusive right to institute a recall and shall be responsible for managing the recall and communications with customers and Governmental Entities. The Parties shall cooperate with each other in connection with any such efforts. In the event that any Supply Product is quarantined or recalled by Buyer, or is subject to stop-sale action, whether voluntary or by governmental action, it is agreed and understood that [****]. Said determination may be made by the Governmental Entity involved, or by mutual agreement of the Parties following examination and review of all records pertinent to the manufacture of the Supply Products subject to such recall.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 5.6. Quality Procedures.

Each Manufacturer and Buyer shall comply with the terms of the quality requirements set forth in a quality agreement to be negotiated in good faith by the Parties and entered into by the Parties as soon as practicable after the date hereof, but on or prior to the Closing Date (the “Quality Agreement”) with respect to the manufacture of the Supply Products. To the extent that any inconsistencies or conflicts exist between the Quality Agreement and this Supply Agreement with regard to quality requirements and compliance with Governmental Rules, the provisions in the Quality Agreement shall prevail.

Section 5.7. Regulatory Communications.

Buyer shall be responsible for communicating with the FDA regarding the Supply Products and the Manufacturing performed by the Manufacturers hereunder and no Manufacturer shall initiate contact with the FDA or such other regulatory authority regarding the Supply Products or the Manufacturing without Buyer’s prior written consent, except when required by the terms of this Supply Agreement or by applicable Governmental Rules; provided, however, notwithstanding the preceding, that for any Supply Products supplied pursuant to an ANDA owned by any such Manufacturer, such Manufacturer shall be responsible for communicating with the FDA regarding such Supply Products and the Manufacturing performed by such Manufacturer hereunder and Buyer shall not initiate contact with the FDA or such other regulatory authority regarding the Supply Products or the Manufacturing without such Manufacturer’s prior written consent, except when required by the terms of this Supply Agreement or by applicable Governmental Rules. Each Party shall provide reasonable assistance to any other Party upon such Party’s reasonable request, and at the requesting party’s sole cost and expense, with respect to such regulatory communications.

Article VI.

PRICE AND PAYMENTS

Section 6.1. Prices.

The prices payable by the Buyer for each of the Supply Products will be the prices set forth on Schedule 6.1 and will be adjusted pursuant to Section 6.2 (the “Initial Price” and as may be adjusted pursuant to Section 6.2, the “Transfer Price”). The prices for the Supply Products set forth on Schedule 6.1 are determined on a [****] in U.S. dollars [****] as the sum of the [****] as determined in accordance with U.S. GAAP [****] provided that the Transfer Prices for an applicable Supply Product [****].

Section 6.2. Adjustment.

(a) On each anniversary of the date the applicable Manufacturer fulfills an initial Firm Order with respect to any Supply Product, such Manufacturer shall have the right to increase the Transfer Price of such Supply Product by [****].

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
(b) On the fourth and fifth anniversaries of the date the applicable Manufacturer fulfills an initial Firm Order with respect to any Supply Product, if the Buyer has not completed the transfer of the Product Technology (as defined in the Asset Purchase Agreement) pursuant to Section 7.3(a) of the Asset Purchase Agreement, then such Manufacturer shall have the right to a payment equal to [****] of total annual costs of goods for the applicable Supply Product for the immediately preceding contract year and Buyer shall promptly (and in any event within [****] of such anniversary) deliver or cause to be delivered to such Manufacturer payment of such amount by wire transfer in immediately available funds, to the account or accounts designated in writing by such Manufacturer to Buyer.

Section 6.3. Invoices.

Each Manufacturer will send all invoices in respect of any Supply Products sold by it to a single address specified in writing by the Buyer to each such Manufacturer following the date that such Supply Products subject to any Firm Order shall have been made available to the Buyer under Section 3.3(a). Payments for Supply Product sold hereunder will be made by the Buyer to such Manufacturer within [****] after the date of the invoice by check or electronic funds transmission in United States dollars as specified in any invoice, without any offset or deduction of any nature whatsoever. Notwithstanding the foregoing, the Parties acknowledge that the Manufacturers shall not invoice the Buyer, and the Buyer shall have no obligation to make payment hereunder, prior to the Closing Date. All payments will be made to such account as the Manufacturers will have specified in writing to the Buyer with written confirmation of payment sent by facsimile to such address as the Manufacturers will have specified in writing to the Buyer. If the Buyer fails to pay any undisputed invoiced amount when due to a Manufacturer, a service charge will be imposed by such Manufacturer equal to [****] that such undisputed amount is overdue. For the avoidance of doubt, Buyer will not have any obligation to make any payment in respect of the initial Firm Order if the Asset Purchase Agreement is terminated prior to the Closing Date.

Section 6.4. Taxes, etc.

The Buyer will bear solely the cost of any taxes, levies, duties or fees of any kind, nature or description whatsoever applicable to the sale and transportation of Supply Product sold by a Manufacturer to the Buyer ("Buyer Taxes"), and the Buyer will forthwith pay to such Manufacturer all such sums upon demand. Such Manufacturer and Buyer shall cooperate with each other and use their commercially reasonable efforts to obtain any certificate or other document from any person as may be necessary to mitigate, reduce or eliminate any such Buyer Taxes.

Section 6.5. Separate Sale.

Each shipment of Supply Product to the Buyer will constitute a separate sale, obligating the Buyer to pay therefor, whether said shipment is in whole or only partial fulfillment of any order or confirmation issued in connection therewith.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 6.6. Deductions.

Except as otherwise required by applicable Law, the Buyer agrees not to make any deductions of any kind from any payments becoming due to any Manufacturer unless the Buyer will have received prior written authorization from such Manufacturer authorizing such deduction.

Article VII.

TERM AND TERMINATION

Section 7.1. Term.

The provisions of this Supply Agreement will commence on the date hereof and will expire (a) with respect to the Supply Pipeline Products, on the second (2\textsuperscript{nd}) anniversary of the commercial launch of such Supply Pipeline Products and (b) with respect to the other Supply Products, on the second (2\textsuperscript{nd}) anniversary of the Closing Date, in each case unless earlier terminated in accordance with this Article VII (the “Initial Term”). On a Supply Product-by-Supply Product basis, prior to the date on which (i) Buyer has successfully completed the transfer of the Product Technology pursuant to Section 7.3(a) of the Asset Purchase Agreement and (ii) Buyer has begun independent manufacture or supply and sales of the applicable Supply Product (“Successful Product Technology Transfer”), this Supply Agreement may be extended (x) with respect to Supply Pipeline Products, once at the request of the Buyer (the Buyer having provided at least ninety (90) days written notice prior to the expiration of the Initial Term to the applicable Manufacturers) for an additional one (1) year term and (y) with respect to the other Supply Products, three (3) times at the request of the Buyer (the Buyer having provided at least [****] written notice prior to the expiration of the Initial Term to the Manufacturer) for an additional one (1) year term, in each case, subject to approval of the FTC Staff or the FTC Interim Monitor, and subject to earlier termination in accordance with this Article VII (the “Extended Term” and together with the Initial Term, the “Term”).

Section 7.2. Termination.

The Manufacturers, on the one hand, or the Buyer, on the other hand, as applicable, will have the right to terminate this Supply Agreement with immediate effect (except as otherwise stated below) upon written notice to the other upon the occurrence of the following:

(a) any Manufacturer, on the one hand, or the Buyer, on the other hand, files a petition in bankruptcy, or enters into an agreement with its creditors, or applies for or consents to the appointment of a receiver or trustee, or makes an assignment for the benefit of creditors, or becomes subject to involuntary proceedings under any bankruptcy or insolvency Law; or

(b) any Manufacturer, on the one hand, or the Buyer, on the other hand, fails to cure any non-compliance with any of the terms and conditions hereof within the time period specified in any prior written notice (which will be at least [****]) delivered to the non-compliant Party by another Party; provided, however, that the Manufacturers shall be permitted

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
to terminate under this Section 7.2(b) only for the Buyer’s failure to pay amounts due to the Manufacturers pursuant to this Supply Agreement and not disputed in good faith by Buyer (it being understood that any amounts due for Supply Product rejected pursuant to Section 5.3 shall be deemed to be disputed in good faith); or

(c) if the Buyer believes it has sufficient alternative supply of any Supply Product to meet its needs, then the Buyer may terminate this Supply Agreement with respect to such Supply Product upon [****] prior written notice to the applicable Manufacturers; or

(d) except as specifically provided in Section 7.2(b), no Manufacturer shall have any right to terminate its supply obligations under this Supply Agreement as a result of any breach by the Buyer; provided, however, that the Manufacturers shall be entitled to seek all other remedies available at Law or in equity; or

(e) if the Parties mutually agree in writing to terminate this Supply Agreement, following the provision of prior notice to the FTC Staff or the FTC Interim Monitor; or

(f) with respect to each Supply Product, upon the Successful Product Technology Transfer such that the Buyer has sufficient alternative supply of such Supply Product to meet its needs, then either Party may terminate this Supply Agreement with respect to such Supply Product upon [****] prior written notice to the other Party; or

(g) with respect to each Supply Pipeline Product, [****]; or

(h) termination of the Asset Purchase Agreement pursuant to Section 11.1(a) thereof.

Section 7.3. Effects of Termination.

If this Supply Agreement is terminated pursuant to Section 7.2:

(a) The Buyer acknowledges and agrees that any Manufacturer will be entitled to cancel any Firm Order accepted prior to the effective date of termination with respect to any such Supply Product subject to such termination, and will not be obligated to supply any such Supply Products ordered by the Buyer pursuant to such Firm Order, with respect to such Supply Products to be delivered after the effective date of the termination; provided that with respect to a termination by Buyer pursuant to Section 7.2(b) or Section 7.2(c), any such Manufacturer will only be entitled to cancel any Firm Order accepted as of a date that is within [****] prior to the effective date of termination. In addition, the Buyer shall purchase from the Manufacturers all quantities of components, materials, APIs and work-in-progress in the Manufacturers’, their Affiliates’ and third party manufacturers’ possession that were reasonably purchased or produced in connection with such parties’ obligations to manufacture Supply Products and are not reasonably allocable to or usable for other activities being carried out by the Manufacturers or their Affiliates [****], which amount shall be payable no later than [****] after receipt thereof by the Buyer. In the event the Supply Agreement is terminated pursuant to

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 7.2(c), the provisions of this Section 7.3(a) will apply only with respect to the Supply Products for which the Supply Agreement has been terminated.

(b) If the termination is by any Manufacturer due to a default by Buyer in the payment of any amount owed hereunder to such Manufacturer when due, then all of the liabilities and obligations of the Buyer to such Manufacturer, whether then due or not, will become immediately due and payable, and such Manufacturer will be entitled to cancel any Firm Order then outstanding and will not be obligated to supply any Supply Products ordered by the Buyer pursuant to such Firm Order.

(c) Subject to Section (a) and (b) hereof, termination or expiration of this Supply Agreement for any reason will not relieve the Parties of any obligation accruing prior to such termination or expiration (including in respect of any Firm Orders); provided, however, the Buyer will not have any obligation to make any payment in respect of the initial Firm Order if this Supply Agreement shall be terminated prior to the Closing Date. The rights and obligations of the Parties under Sections 5.5, 7.3, Article IX, Article X and Article XII of this Supply Agreement will survive the expiration or termination of this Supply Agreement.

(d) It is understood and agreed that the Buyer will be responsible for all Manufacturing of the Supply Products after the earlier of the termination (in accordance with the terms hereof) or expiration of this Supply Agreement. In addition, it is understood and agreed that the Buyer will be responsible, [****], except as otherwise required pursuant to the terms of the Asset Purchase Agreement.

**Article VIII.**

**FORCE MAJEURE**

**Section 8.1.** Force Majeure.

None of the Parties will be deemed to have defaulted under or breached this Supply Agreement for failure or delay in fulfilling or performing any term or provision of this Supply Agreement (other than the payment of money) when such failure or delay will be caused (directly or indirectly) by a circumstance beyond the reasonable control of the affected Parties, including, without limitation, fire; flood; accident; explosion; terrorism; sabotage; strike, or any labor disturbance (regardless of the reasonableness of the demands of labor); civil commotions; riots; invasions; wars (present or future); acts, restraints, requisitions, regulations, or directions of any Governmental Entity, except where such acts, restraints, requisitions, regulations or directions are the result of a Party’s negligence or willful actions; voluntary or mandatory compliance by any Manufacturer with any request for material represented to be for purposes of (directly or indirectly) producing articles for national defense or national defense facilities; shortage of labor, fuel, power, or raw materials; inability to obtain supplies; failures of normal sources of supplies; inability to obtain or delays of transportation facilities; any act of God; any act of the other Party or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of such Party (each a “Force Majeure”). Any Party asserting its inability to

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
perform any obligation hereunder for any such contingency shall promptly notify the other Party of the existence of any such contingency and shall use commercially reasonable efforts to mitigate such contingency and re-commence its performance of such obligation as soon as commercially practicable. Subject to this Section 8.1, if any Manufacturer is unable to supply the Buyer with its requirements of Supply Products by reason of Force Majeure, Force Majeure shall excuse such Manufacturer’s performance until the Force Majeure has ceased and for a reasonable period of time thereafter, to allow such Manufacturer to restore itself to the position it was in with respect to the Supply Products immediately prior to the Force Majeure. Within [****] of notification by such Manufacturer that it is able to resume the necessary supply of the Supply Products to the Buyer, the Buyer shall resume obtaining Supply Products from such Manufacturer pursuant to the terms of this Supply Agreement; however, in respect of any Firm Orders for the Supply Products the delivery of which was during such Force Majeure period, parties shall discuss in good faith the requirements of the Buyer and delivery of such Supply Products. None of the Parties shall suffer penalty or incur any liability for their inability to perform hereunder by reason of Force Majeure. If a Party fails to perform any of its obligations under this Supply Agreement by reason of Force Majeure and such non-performance continues for a period of [****] from the first occurrence of the event of Force Majeure, the other party may terminate this Supply Agreement with respect to any Supply Product that is directly related to, or the subject of, such Force Majeure event by providing written notice to that effect to the non-performing Parties. In the event of such termination, each Parties’ respective rights and obligations under this Supply Agreement shall terminate with respect to such Supply Product except for any amounts previously due and owing by one party to the other and except for any other obligations which this Supply Agreement expressly provides shall survive termination.

Article IX.

CONFIDENTIALITY

Section 9.1. Non-disclosure and Non-use Obligation.

Each Party or its Affiliates or contractors may, from time to time, prior to or after the date hereof, disclose to the other Party information of a technical or non-technical nature that is not generally known to the trade or public. Each Party agrees that it will not use for any purpose other than as necessary to perform its obligations under this Supply Agreement, and will not disclose to anyone in any manner whatsoever, any such information including, without limitation, information relating in any way to the products, processes, and services of each Party or its Affiliates or contractors, which becomes known to the other Party on or prior to the date of the termination or expiration of this Supply Agreement. The obligations of this Section 9.1 will not apply to information (i) that is known to a Party as shown by written records prior to its disclosure by any Manufacturer or its contractors; (ii) that becomes public information or is generally available to the public other than by an unauthorized act or omission of the other Party; or (iii) that is received by a Party from third parties who are in rightful possession of such information and who are lawfully entitled to disclose such information and did not receive such information from the other Party. From and after the Closing Date, the Transferred Assets and all confidential information relating solely and exclusively to the Transferred Assets or the

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article X.

INDEMNIFICATION

Section 10.1. By the Manufacturers.

From and after the Closing Date, the Manufacturers will indemnify, defend and hold harmless, and pay and reimburse, the Buyer and its Affiliates and their respective officers, directors, employees, agents, advisors and shareholders from and against any and all Losses resulting from any claim by a third party (a) to the extent and only to the extent attributable to the Manufacturers’ gross negligence, willful misconduct or breach of any of their representations and warranties, covenants, agreements or obligations contained in this Supply Agreement; or (b) regarding any Supply Product sold by Buyer or its Affiliates from and after the Closing Date, including but not limited to (i) any claim for patent infringement, personal injury, death or property damage or (ii) the use of the Supply Products by any person; provided, however, that the Buyer shall not be liable for any Losses to the extent arising from each such Manufacturer’s negligence or breach of its representations and warranties, covenants, agreements or obligations contained herein.

Section 10.2. By the Buyer.

From and after the Closing Date, the Buyer will indemnify, defend and hold harmless, and pay and reimburse, each Manufacturer and its Affiliates and their respective officers, directors, employees, agents, advisors and shareholders from and against any and all Losses resulting from any claim by a third party (a) to the extent and only to the extent attributable to the Buyer’s gross negligence, willful misconduct or breach of any of its representations and warranties, covenants, agreements or obligations contained in this Supply Agreement; or (b) regarding any Supply Product sold by Buyer or its Affiliates from and after the Closing Date, including but not limited to (i) any claim for patent infringement, personal injury, death or property damage or (ii) the use of the Supply Products by any person; provided, however, that the Buyer shall not be liable for any Losses to the extent arising from each such Manufacturer’s negligence or breach of its representations and warranties, covenants, agreements or obligations contained herein.

Section 10.3. Procedures.

In the event of any claims for indemnification made by one Party against the other Party under this Section 10, the procedure to be used for the administration and resolution of such claims will be as set forth in Section 12.5 of the Asset Purchase Agreement.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 10.4. Insurance.

At all times from the Closing Date through that date which is [****] after the termination or expiration of this Supply Agreement, the Buyer and the Manufacturers will maintain product liability insurance (or self insurance), which is reasonable and customary in the USA pharmaceutical industry for companies of comparable size, provided that in no event shall the product liability insurance amounts be [****] per year. The Buyer and the Manufacturers shall provide written proof of such insurance to the other Party upon request.

Section 10.5. Limitations.

(a) In no event shall any Party be liable by reason of any breach of any representation, warranty, condition or other term of this Supply Agreement or any duty of common law, for any consequential, special, indirect, or incidental or punitive loss or damage (whether for loss of current or future profits, loss of enterprise value or otherwise), and all Parties agree that they shall not make any such claim; provided, however, that the foregoing does not limit any of the obligations or liability of (i) any Party or its Affiliates under Sections 10.1 and 10.2 with respect to (1) claims for indemnity of unrelated third parties, (2) liability arising from fraud of a Party or its Affiliates and (3) with respect to Manufacturer’s breach of its obligations pursuant to Section 3.2 and Section 5.3, liability arising from fraud, intentional breach or willful misconduct of a Party or its Affiliates or (ii) a Manufacturer for a Supply Failure due to the gross negligence of such Manufacturer.

(b) Notwithstanding any other provision of this Supply Agreement, in the event that the Buyer asserts or claims that any Manufacturer has breached any of its obligations hereunder or that any Manufacturer is liable pursuant to Section 10.1, [****].

Article XI.

INTELLECTUAL PROPERTY RIGHTS

Section 11.1. License.

The Buyer hereby grants to each Manufacturer for the Term of this Supply Agreement, a royalty-free, non-exclusive, non-transferable, right and license under the Transferred Assets, as applicable in the Territory to manufacture and supply the Supply Products for the Buyer. This license is sublicenseable by each Manufacturer to contractors which such Manufacturer may cause to manufacture and supply the Supply Products.

To the extent that any of the Supply Products are marketed under a trademark or housemark of the Buyer (“Buyer Trademark.”), Buyer hereby grants to each Manufacturer a revocable, non-assignable and non-exclusive license to apply and affix the Buyer Trademark on or in relation to the Supply Products manufactured for the Buyer hereunder; provided, however that nothing herein contained shall give or be deemed to give or shall be intended to give such Manufacturer any right, title, interest or claim in or to the Buyer Trademark.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Article XII.

MISCELLANEOUS

Section 12.1. Assignment.

None of the Parties may assign its rights or obligations under this Supply Agreement without (i) in the case of Manufacturers, the prior written consent of Buyer, or, (ii) in the case of Buyer, the prior written consent of Manufacturers, and (iii) the prior written consent of the FTC Staff or the FTC Interim Monitor; provided, however, that after the Closing Date any Party may assign its rights and obligations under this Supply Agreement, without the prior written consent of any Person to an Affiliate or to a successor of the assigning Party by reason of merger, sale of all or substantially all of its assets or the portion of its business which relates to a Supply Product or any number of the Supply Products, or any similar transaction. Any permitted assignee or successor-in-interest will assume all obligations of its assignor under this Supply Agreement. No assignment will relieve any Party of its responsibility for the performance of any obligation. This Supply Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Notwithstanding anything to the contrary contained herein, for the avoidance of doubt, any Manufacturer shall be permitted to delegate and assign any portion of its obligations hereunder to any of its Affiliates without the prior written consent of Buyer; provided that such delegation and assignment will not relieve such Manufacturer of its responsibility for the performance of any such obligation.

Section 12.2. Severability.

If any provision of this Supply Agreement is held to be illegal, invalid or unenforceable by any Law or public policy, the remaining provisions of this Supply Agreement will nevertheless remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom as long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties will negotiate reasonably and in good faith to modify this Supply Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible, subject to the approval of the FTC Staff or the FTC Interim Monitor.

Section 12.3. Notices.

All notices and other communications required or permitted to be given or made pursuant to this Supply Agreement shall be in writing signed by the sender and shall be deemed duly given (a) on the date delivered, if personally delivered, (b) on the date sent by teletypewriter with automatic confirmation by the transmitting machine showing the proper number of pages were transmitted without error, (c) on the Business Day after being sent by Federal Express or another recognized overnight mail service which utilizes a written form of receipt for next day or

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
next Business Day delivery or (d) two (2) Business Days after mailing, if mailed by United States postage-prepaid certified or registered mail, return receipt requested, in each case addressed to the applicable Party at the address set forth below; provided that a Party may change its address for receiving notice by the proper giving of notice hereunder:

(a) if to the Buyer, to:

Impax Laboratories, Inc.
31047 Genstar Road
Hayward, CA 94544
Attn: General Counsel
Facsimile No.: (510) 240-6096

With a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Attn: Francis J. Aquila
Matthew G. Hurd
Facsimile No.: (212) 291-9004 / (212) 291-9076

(a) if to the Manufacturers prior to Closing, to:

Allergan plc
Morris Corporate Center III
400 Interpace Parkway
Parsippany, New Jersey 07054
Attention: Chief Legal Officer and Secretary
Facsimile: +1 (862) 261-8043

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
885 Third Avenue
New York, NY 10022-4834
Attn: Charles K. Ruck
R. Scott Shean
Facsimile: +1 (212) 751-4864

and

Teva Pharmaceutical Industries Ltd.
5 Basel Street
P.O.B. 3190

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Petach Tikvah, Israel
Attention: Dror Bashan
Email: Dror.Bashan@teva.co.il

and

Teva Pharmaceuticals USA, Inc.
425 Privet Road
PO Box 1005
Horsham, PA 19044 U.S.A.
Attention: General Counsel
Fax: (215) 293-6499

and

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Daniel E. Wolf
Facsimile: (212) 446-6460

and

Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Attention: Mark Kovner
Facsimile: (202) 879-5200

(b) if to the Manufacturers following Closing, to:

Teva Pharmaceutical Industries Ltd.
5 Basel Street
P.O.B. 3190
Petach Tikvah, Israel
Attention: Dror Bashan
Email: Dror.Bashan@teva.co.il

and

Teva Pharmaceuticals USA, Inc.
425 Privet Road
PO Box 1005
Horsham, PA 19044 U.S.A.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
It is understood and agreed that this Section 12.3 is not intended to govern the ordinary course business communications necessary among the Parties in performing their duties, in due course, under the terms of this Supply Agreement, including the placement of orders and the delivery of forecasts.

Section 12.4. Applicable Law.

This Supply Agreement and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the laws of the State of New York, U.S.A. applicable to agreements made and to be performed entirely in such state.

Section 12.5. Jurisdiction, Venue, Service of Process, WAIVER OF JURY TRIAL.

(a) The Buyer and the Manufacturers agree to irrevocably submit to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A., for the purposes of any suit, action or other proceeding arising out of this Supply Agreement or any transaction contemplated hereby. Each Party agrees to commence any such action, suit or proceeding either in the United States District Court for the Southern District of New York, U.S.A. or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each Party further agrees that service of any process, summons, notice or document by U.S. registered mail or recognized international courier service to such Party’s respective address set forth in Section 12.3 of this Supply Agreement shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction in this Supply Agreement. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or
proceeding arising out of this Supply Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, U.S.A.

(b) THE BUYER AND THE MANUFACTURERS HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS SUPPLY AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS SUPPLY AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE PARTIES TO THIS SUPPLY AGREEMENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES TO THIS SUPPLY AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS SUPPLY AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 12.6. Entire Agreement.

This Supply Agreement and the attached Schedules, which are incorporated herein, along with the Asset Purchase Agreement and the Schedules and Exhibits thereto, constitute the entire agreement among the Parties with respect to the subject matter hereof and all prior agreements with respect hereto are superseded. Each Party confirms that it is not relying on any representations, warranties, covenants or understandings of any kind, nature or description whatsoever of the other Party, except such as are as specifically set forth herein or in the Asset Purchase Agreement. No amendment or modifications hereof will be binding upon the Parties unless set forth in a writing specified to be an explicit amendment to this Supply Agreement duly executed by authorized representatives of each of the Parties, and subject to the approval of the FTC Staff or the FTC Interim Monitor. The Parties recognize that, during the Term of this Supply Agreement, a purchase order, acknowledgement form or similar routine document (collectively “Forms”) may be used to implement or administer provisions of this Supply Agreement. Therefore, the Parties agree that the terms of this Supply Agreement, as it may be amended, will prevail in the event of any conflict between this Supply Agreement and the printed provision of such Forms, or typed provisions of Forms that add to, vary, modify or are in conflict with the provisions of this Supply Agreement with respect to the Supply Products sold during the Term of this Supply Agreement.

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Section 12.7.   Headings.

The headings used in this Supply Agreement are intended for convenience only and will not be considered part of the
written understanding among the Parties and will not affect the construction of this Supply Agreement.

Section 12.8.   Independent Contractors.

The relationship between the Manufacturers, on the one hand, and the Buyer, on the other hand, is solely that of buyer
and seller. It is expressly agreed that the Manufacturers, on the one hand, and the Buyer, on the other hand, will be independent
contractors and that neither the relationship among the Parties nor this Supply Agreement will be construed as creating a partnership,
joint venture or agency. Neither the Manufacturers, on the one hand, nor the Buyer, on the other hand, will have the authority to
make any statements, representations or commitments of any kind, or to take any action or to incur any liability or obligation which
will be binding on the other, without (i) in the case of Manufacturers, the prior written consent of Buyer, or (ii) in the case of Buyer,
the prior written consent of Manufacturers. All persons employed by a Party will be employees of such Party and not of the other
Party and all costs and obligations incurred by reason of any such employment will be for the account and expense of such Party.

Section 12.9.   Allergan

Notwithstanding anything to the contrary contained herein, Buyer, on behalf of itself and its Affiliates acknowledges
that neither Allergan nor any of its Affiliates (other than the Manufacturers) shall have any liability under this Supply Agreement or
for any claim based on, in respect of, or by reason of, the transactions contemplated hereby, including, but not limited to, any dispute
related to, or arising from, the Supply Products.

Section 12.10.   Waiver.

The waiver by any Party of any right hereunder, or, in the case of Manufacturers, the failure to perform or a breach by
Buyer, or, in the case of Buyer, the failure to perform or a breach by Manufacturers, in each case will not be deemed a waiver of any
other right hereunder or of any other or subsequent breach or failure by said other Party whether of a similar nature or otherwise.

Section 12.11.   Counterparts.

This Supply Agreement may be executed in counterparts, each of which will be deemed an original, and all of which
together will constitute one and the same instrument.

Section 12.12.   No Benefit to Third Parties.

The representations, warranties, covenants and agreements set forth in this Supply Agreement are for the sole benefit
of the Parties and their successors and permitted assigns, and

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
nothing herein, express or implied, is intended to or will confer upon any person or entity any legal or equitable rights, benefits or remedies.

[signature page follows]

29

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, the parties hereto have caused this Supply Agreement to be signed by their respective representatives thereunto duly authorized, all as of the date first written above.

WATSON LABORATORIES, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS HOLDCO US, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

THE RUGBY GROUP, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ANDRX LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

[Supply Agreement]
ACTAVIS ELIZABETH LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS SOUTH ATLANTIC LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS MID ATLANTIC LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS PHARMA, INC.

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

ACTAVIS LLC

By: /s/ A. Robert D. Bailey

Name: A. Robert D. Bailey

Title: President

[Supply Agreement]
ACTAVIS GROUP PTC ehf

By: /s/ Guojon Gustafsson

Name: Guojon Gustafsson

Title: Director

By: /s/ Hafrun Frioriksdottir

Name: Hafrun Frioriksdottir

Title: Director

By: /s/ Daniel Motto

Name: Daniel Motto

Title: Director

BREATH LTD.

By: /s/ Sara Vincent

Name: Sara Vincent

Title: Director

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson

Name: G. Frederick Wilkinson

Title: President, Chief Executive Officer

[Supply Agreement ]
Schedule 3.2(d) - Initial Firm Order

<table>
<thead>
<tr>
<th>Product Description</th>
<th>PO Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
Schedule 3.2(f) - Certain Supply Products

<table>
<thead>
<tr>
<th>Product Description</th>
<th>Seller Label</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

[****] – Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
## Schedule 6.1 - Transfer Prices and Batch Quantities

<table>
<thead>
<tr>
<th>SKU</th>
<th>Brand Name</th>
<th>CPU ($)</th>
<th>Supply Site of Initial Order</th>
<th>Batch Size</th>
<th>Supply Site of Remaining Tech-transfer Period</th>
<th>Batch Size</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
<tr>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
<td>[****]</td>
</tr>
</tbody>
</table>

*Estimate to updated upon launch*
Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
AMENDMENT NO. 1
TO THE
SUPPLY AGREEMENT

THIS AMENDMENT NO. 1 TO THE SUPPLY AGREEMENT (this “Amendment”) is dated as of June 30, 2016, by and among Impax Laboratories, Inc., a Delaware corporation (“Buyer”), Actavis Elizabeth LLC, a Delaware limited liability company (“Actavis Elizabeth”), Actavis Group PTC Ehf., an Iceland einkahlutafelag (“Actavis PTC”), Actavis Holdco US, Inc., a Delaware corporation (“Actavis Holdco”), Actavis LLC, a Delaware limited liability company (“Actavis LLC”), Actavis Mid Atlantic LLC, a Delaware limited liability company (“Actavis Mid Atlantic”), Actavis Pharma, Inc., a Delaware corporation (“Actavis Pharma”), Actavis South Atlantic LLC, a Delaware limited liability company (“Actavis South Atlantic”), Andrx LLC, a Delaware limited liability company (“Andrx”), Breath Ltd., a United Kingdom private limited company (“Breath”), The Rugby Group, Inc., a New York corporation (“Rugby”), and Watson Laboratories, Inc., a Nevada corporation (“Watson” and, together with Actavis Elizabeth, Actavis PTC, Actavis Holdco, Actavis LLC, Actavis Mid Atlantic, Actavis Pharma, Actavis South Atlantic, Andrx, Breath and Rugby, each a “Manufacturer” and, collectively, the “Manufacturers”).

WITNESSETH:

WHEREAS, Buyer and the Manufacturers executed that certain Supply Agreement, dated June 20, 2016 (as amended, restated, waived or otherwise modified, the “Supply Agreement”); and

WHEREAS, the Parties have agreed to amend certain terms of the Supply Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Any capitalized term used in this Amendment shall have the meaning designated for the capitalized term in the Supply Agreement unless otherwise defined in this Amendment. The term “Supply Agreement” used in the Supply Agreement shall hereafter refer to the Supply Agreement, as amended by this Amendment.

2. Amendment of the Supply Agreement. The Supply Agreement is hereby amended as follows (with deleted text shown as stricken and new text shown as double underlined):

   (a) The following terms are hereby added to Section 1.1 of the Supply Agreement:

   “‘Cure Period” means [****] following Manufacturer’s receipt of notice from Buyer of a Supply Failure.”

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
“Customer” means any third party who purchases the Supply Product from the Buyer pursuant to a written agreement between the Buyer and such third party.

“Customer Penalties” means the aggregate penalties the Buyer incurs from its Customers, directly related to actual worth of the quantities of Supply Products subject to the applicable Supply Failure (which quantities shall not exceed [****] supply of the applicable Supply Products) as evidenced by written records, as a result of the Manufacturer’s Supply Failure, which amount generally represents [****].”

“Wholesale Acquisition Cost” means, with respect to a Supply Product, [****].”

(b) Section 7.2(a) of the Supply Agreement is hereby amended in its entirety to read as follows:

“(a) [reserved]”

(c) Section 7.2(b) of the Supply Agreement is hereby amended in its entirety to read as follows:

“(b) any Manufacturer, on the one hand, or the Buyer, on the other hand, fails to cure any non-compliance with any of the terms and conditions hereof within the time period specified in any prior written notice (which will be at least [****]) delivered to the non-compliant Party by another Party; provided, however, that the Manufacturers shall be permitted to terminate under this Section 7.2(b) [****] prior written notice to the FTC only for the Buyer’s failure to pay amounts due to the Manufacturers pursuant to this Supply Agreement and not disputed in good faith by Buyer (it being understood that any amounts due for Supply Product rejected pursuant to Section 5.3 shall be deemed to be disputed in good faith) unless the FTC Staff objects to such termination in writing to the Manufacturer within [****] of the receipt of such notice to the FTC, in which case Manufacturer shall not be permitted to terminate and shall continue to supply under the terms and conditions hereof, but Manufacturer may require the Buyer to place any disputed amounts due into an escrow account until such time as an agreement over these amounts between the Manufacturer and the Buyer is reached or adjudicated; or”

(d) Section 10.5 of the Supply Agreement is hereby amended and restated in its entirety to read as follows:

“(a) In no event shall any Party be liable by reason of any breach of any representation, warranty, condition or other term of this Supply Agreement or any duty of common law, for any consequential, special, indirect, or incidental or punitive loss or damage (whether for loss of current or future profits, loss of enterprise value or otherwise), and all Parties agree that they shall not make any such claim; provided, however, that the foregoing does not limit any of the obligations or liability of (i) any Party or its Affiliates under Sections 10.1 and 10.2 with respect to (1) claims for

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
indemnity of unrelated third parties, (2) liability arising from fraud of a Party or its Affiliates and (3) with respect to
Manufacturer’s breach of its obligations pursuant to Section 3.2 and Section 5.3, liability arising from fraud,
intentional breach or willful misconduct of a Party or its Affiliates or (ii) a Manufacturer for a Supply Failure due to
the gross negligence of such Manufacturer; provided however, solely with respect to clause (ii) that Manufacturer
shall only be subject to liability for consequential, special, indirect or incidental or punitive loss or damage where (A)
the Supply Failure is the result of Manufacturer’s fraud, willful misconduct, or gross negligence; or (B) the Supply
Failure is the result of the Manufacturer’s negligence and Manufacturer has not used its commercially reasonable best
efforts to cure the Supply Failure during the Cure Period; provided further that in no event shall Manufacturer be
liable with respect to any customer penalties due to any such Supply Failure under (A) or (B), above, other than the
Customer Penalties.

(b) Notwithstanding any other provision of this Supply Agreement, in the event that the Buyer asserts or claims that
any Manufacturer has breached any of its obligations hereunder or that any Manufacturer is liable pursuant to Section
10.1, [****].”

3. **Miscellaneous**.

   (a) **Effectiveness of Amendment**. This Amendment shall become effective upon the date hereof. In the
event of any inconsistency or conflict between the Supply Agreement and this Amendment, the terms, conditions and provisions of
this Amendment shall govern and control.

   (b) **General Provisions**. Article XII of the Supply Agreement shall apply to this Amendment, *mutatis
mutandis*.

* * * * * *

[****] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended. Confidential treatment has been requested with respect to the omitted portions.
IN WITNESS WHEREOF, this Amendment has been executed and delivered by the parties hereto effective as of the date first above written.

WATSON LABORATORIES, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS HOLDCO US, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

THE RUGBY GROUP, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ANDRX LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS ELIZABETH LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

[Signature Page to Impax-Allergan Supply Agreement Amendment]
ACTAVIS SOUTH ATLANTIC LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS MID ATLANTIC LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS PHARMA, INC.
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS LLC
By: /s/ A. Robert D. Bailey
Name: A. Robert D. Bailey
Title: President

ACTAVIS GROUP PTC ehf
By: /s/ Guojon Gustafsson
Name: Guojon Gustafsson
Title: Director

[Signature Page to Impax-Allergan Supply Agreement Amendment]
By: /s/ Hafrun Frioriksdottir
Name: Hafrun Frioriksdottir
Title: Director

By: /s/ Daniel Motto
Name: Daniel Motto
Title: Director

BREATH LTD.

By: /s/ Sara Vincent
Name: Sara Vincent
Title: Director

IMPAX LABORATORIES, INC.

By: /s/ G. Frederick Wilkinson
Name: G. Frederick Wilkinson
Title: President, Chief Executive Officer

[Signature Page to Impax-Allergan Supply Agreement Amendment]
I, Fred Wilkinson, certify:

1. I have reviewed this Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2016 of Impax Laboratories, Inc.;

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

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

4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

August 9, 2016

By: /s/ Fred Wilkinson

Fred Wilkinson
President and Chief Executive Officer
CERTIFICATION PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Bryan M. Reasons, certify:

1. I have reviewed this Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2016 of Impax Laboratories, Inc.;

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

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

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

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

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

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

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

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

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

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

August 9, 2016

By: /s/ Bryan M. Reasons

Bryan M. Reasons
Chief Financial Officer and Senior Vice President,
Finance
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Impax Laboratories, Inc. (the “Company”) for the fiscal quarter ended June 30, 2016 (the “Report”), Fred Wilkinson, President and Chief Executive Officer, hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Section 1350 of Chapter 63 of Title 18 of the United States Code), that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

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

August 9, 2016

By: /s/ Fred Wilkinson

Fred Wilkinson
President and Chief Executive Officer

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Section 1350 of Chapter 63 of Title 18 of the United States Code) and is not being filed as part of the Report or as a separate disclosure document.
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Impax Laboratories, Inc. (the “Company”) for the fiscal quarter ended June 30, 2016 (the “Report”), Bryan M. Reasons, Chief Financial Officer, and Senior Vice President, Finance hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Section 1350 of Chapter 63 of Title 18 of the United States Code), that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

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

August 9, 2016

By: /s/ Bryan M. Reasons

Bryan M. Reasons
Chief Financial Officer and Senior Vice President,
Finance

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Section 1350 of Chapter 63 of Title 18 of the United States Code) and is not being filed as part of the Report or as a separate disclosure document.