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

FORM 10-Q

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

For the quarterly period ended June 30, 2023

or

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 000-23186

BIOCRYST PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**62-1413174**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
4505 Emperor Blvd., Suite 200 **Durham, North Carolina** (Address of principal executive offices)	**27703** (Zip Code)

+1-919-859-1302
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	BCRX	Nasdaq Global Select Market

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 x No o

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	x	Accelerated filer	o
Non-accelerated filer	o	Smaller reporting company	o
		Emerging growth company	o

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

The number of shares of Common Stock, par value $0.01, of the Registrant outstanding as of July 28, 2023 was 189,493,735.

BIOCRYST PHARMACEUTICALS, INC.

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When used in this report, unless otherwise indicated, "we," "our," "us," the "Company," and "BioCryst" refer to BioCryst Pharmaceuticals, Inc. and, where appropriate, its subsidiaries.

Cautionary Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q (this "report") includes forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which are subject to the "safe harbor" created in Section 21E. In particular, statements about our expectations, beliefs, plans, objectives or assumptions of future events or performance are contained or incorporated by reference in this report. All statements other than statements of historical facts contained herein are forward-looking statements. These forward-looking statements can generally be identified by the use of words such as "may," "will," "intends," "plans," "believes," "anticipates," "expects," "estimates," "predicts," "potential," the negative of these words or similar expressions. Statements that describe our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. Discussions containing these forward-looking statements are principally contained in the "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" sections of this report, as well as any amendments we make to those sections in filings with the Securities and Exchange Commission ("SEC"). These forward-looking statements include, but are not limited to, statements about:

- the preclinical development, clinical development, commercialization, or post-marketing studies of our products and product candidates, including ORLADEYO® (berotralstat), BCX10013, peramivir, and early-stage discovery programs, and our plans regarding the same;
- the timing and success of our commercialization of ORLADEYO in the United States and elsewhere and expectations regarding the commercial market for ORLADEYO;
- the potential for government stockpiling orders of our products and product candidates, including the timing or likelihood of entering into any U.S. Government stockpile order and our ability to execute any such order;
- additional regulatory approvals, or milestones, royalties or profit from sales of our products by us or our partners;
- the implementation of our business model, strategic plans for our business, products, product candidates and technology;
- our ability to establish and maintain collaborations or out-license rights to our products and product candidates;
- plans, programs, progress and potential success of our collaborations, including with Torii Pharmaceutical Co., Ltd. ("Torii") for ORLADEYO in Japan and Shionogi & Co., Ltd. ("Shionogi") and Green Cross Corporation ("Green Cross") for peramivir in their territories;
- our and our subsidiary guarantors' ability to satisfy obligations under the Pharmakon Loan Agreement (as defined below) and to comply with the covenants as set forth in the agreements governing our debt obligations;
- the scope of protection we are able to establish and maintain for intellectual property rights covering our products, product candidates, and technology;
- our ability to operate our business without infringing the intellectual property rights of others;
- estimates of our revenues, expenses, capital requirements, annual cash utilization, and our needs for additional financing;
- the timing or likelihood of regulatory filings or regulatory agreements, deferrals, approvals, and other decisions;
- our ability to manage our liquidity needs, including our ability to raise additional capital, to fund our operations or repay our recourse debt obligations;
- our financial performance; and
- competitive companies, technologies, and our industry.

We have based any forward-looking statements on our current expectations about future events or performance. While we believe these expectations are reasonable, forward-looking statements are inherently subject to known and unknown risks and uncertainties, many of which are beyond our control. Actual results may differ materially from those suggested or implied by these forward-looking statements for various reasons, including those discussed in this report under the heading "Risk Factors" in Part II, Item 1A, some of which are summarized in the "Risk Factor Summary" below. Any forward-looking statement is subject to these and other risks, uncertainties, and assumptions relating to our operations, results of operations, industry, and future growth. Given these risks and uncertainties, you are cautioned not to place undue reliance on our forward-looking statements. The forward-looking statements included in this report are made only as of the date hereof. We do not undertake, and specifically decline, any obligation to update any of these statements or to publicly announce the results of any revisions to any forward-looking statements to reflect future events or developments, except as may be required by U.S. federal securities laws.

Risk Factor Summary

An investment in the Company involves risks. You should carefully read this entire report and consider the uncertainties and risks discussed in the "Risk Factors" section in Part II, Item 1A of this report, which may adversely affect our business, financial condition, or results of operations, along with the other information included in our other filings with the SEC, before making an investment decision in the Company. A summary of the principal factors that make an investment in the Company speculative or risky is set forth below.

- The ongoing novel coronavirus ("COVID-19") pandemic could create challenges in all aspects of our business, including, without limitation, delays, stoppages, difficulties, and increased expenses with respect to our and our partners' development, regulatory processes, and supply chains, negatively impact our ability to access the capital or credit markets to finance our operations, or have the effect of heightening many of the risks described below or in the "Risk Factors" section in Part II, Item 1A of this report.

- We have incurred losses since our inception, expect to continue to incur losses, and may never be profitable.

- We may need to raise additional capital in the future. If we are unable to raise capital as and when needed, we may need to adjust our operations.

- Our success depends upon our ability to manage our product candidate pipeline, advance our product candidates through the various stages of development, especially through the clinical trial process, and to receive and maintain regulatory approvals for the commercial sale of our product candidates. The development process and related regulatory processes are complex and uncertain, may be lengthy and expensive, and require, among other things, an indication that our products and product candidates are safe and effective. For example, applicable regulatory agencies could refuse to approve, or impose restrictions or warnings on, our product candidates, require us to conduct additional studies or adopt study designs that differ from our planned development strategies, suspend or terminate our clinical trials, withdraw approval for our products, or take other actions that could materially impact the cost, timing, and success of our planned development and commercialization strategies.

- We rely heavily upon third parties, including development partners, contractors, contract research organizations, and third-party suppliers, manufacturers, and distributors, for many important stages of our product candidate development and in the commercialization of certain of our products and product candidates. Our failure to establish and maintain these relationships, the failure of any such third party to perform its obligations under agreements with us, or the failure of such a relationship to meet our expectations could have a material adverse impact on our business, financial condition, and results of operations.

- If we fail to obtain additional financing or acceptable partnership arrangements as and when needed, we may be unable to complete the development and commercialization of our products and product candidates or continue operations.

- The commercial viability of any approved product could be compromised if the product is less effective than expected, causes undesirable side effects that either were not previously identified or were worse than expected, or fails to achieve market acceptance by physicians, patients, third-party payors, health authorities, and others.

- There can be no assurance that our or our partners' commercialization efforts, methods, and strategies for our products or technologies will succeed, and our future revenue generation is uncertain.

- We have expanded, and may continue expanding, our development and regulatory capabilities and are implementing sales, marketing, and distribution capabilities, and as a result, we may encounter difficulties managing our growth, which could disrupt our operations.
- We face intense competition, and if we are unable to compete effectively, the demand for our products may be reduced. In addition, developments by others may render our products, product candidates, or technologies obsolete or noncompetitive.
- We are subject to various laws and regulations related to our products and product candidates, and if we or our employees, consultants, or partners do not comply with these laws and regulations, we could face substantial penalties and our reputation could be harmed. In addition, we and our partners may be subject to new legislation, regulatory proposals, and healthcare payor initiatives that may increase our costs of compliance and adversely affect our or our partners' ability to market our products, develop our product candidates, obtain collaborators, and raise capital.
- If we fail to adequately protect or enforce our intellectual property rights, the value of those rights would diminish. Legal proceedings to protect or enforce our patents, the patents of our partners, or our other intellectual property rights could be expensive, time consuming, and unsuccessful. If we fail to secure the rights to patents of others, this could adversely affect our business.
- We face an inherent risk of liability in the event that the use or misuse of our products or product candidates results in personal injury or death, and our product liability insurance coverage may be insufficient.
- If we fail to reach milestones or to make annual minimum payments or otherwise breach our obligations under our license agreements, our licensors may terminate our agreements with them and/or seek additional remedies.
- The Pharmakon Loan Agreement contains conditions and restrictions that limit our flexibility in operating our business. We may be required to make a prepayment or repay our outstanding indebtedness under the Pharmakon Loan Agreement earlier than we expect if a prepayment event or an event of default occurs, including a material adverse change with respect to us, which could have a material adverse effect on our business.
- International expansion of our business exposes us to business, legal, regulatory, political, operational, financial, and economic risks. For example, our actual or perceived failure to comply with European governmental laws and regulations and other obligations related to privacy, data protection, and information security could harm our business. In addition, the United Kingdom's withdrawal from the European Union could result in increased regulatory and legal complexity, which may make it more difficult for us to do business in Europe and impose additional challenges in securing regulatory approval of our product candidates in Europe.
- If our facilities incur damage or power is lost for a significant length of time, our business will suffer.
- A significant disruption in our or our third-party vendors' information technology systems or a cybersecurity breach could adversely affect our business.
- Our existing principal stockholders hold a substantial amount of our common stock and may be able to influence significant corporate decisions, which may conflict with the interests of other stockholders.
- Our stock price has been, and is likely to continue to be, highly volatile, which could cause the value of an investment in our common stock to decline significantly.
- Natural disasters, epidemic or pandemic disease outbreaks, trade wars, armed conflicts, political unrest, or other events could disrupt our business or operations or those of our development partners, manufacturers, regulators, or third parties with whom we conduct business now or in the future.
- Our business, operations, clinical development or commercialization plans and timelines, and access to capital could be adversely affected by unpredictable and unstable market and economic conditions.
- We are subject to legal proceedings, which could harm our reputation or result in other losses or unexpected expenditure of time and resources.

- If we fail to retain our existing key personnel or fail to attract and retain additional key personnel, the development of our product candidates, the commercialization of our products, and the related expansion of our business will be delayed or stopped.

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

BIOCRYST PHARMACEUTICALS, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands)

	June 30, 2023 (Unaudited)	December 31, 2022 (Note 1)
Assets		
Cash and cash equivalents	$ 146,215	$ 304,767
Restricted cash	1,574	1,472
Investments	264,455	119,543
Trade receivables	57,667	50,599
Inventory, net	27,033	27,533
Prepaid expenses and other current assets	14,112	12,586
Total current assets	511,056	516,500
Property and equipment, net	8,438	8,617
Long-term investments	3,445	18,077
Other assets	6,946	6,806
Total assets	$ 529,885	$ 550,000
Liabilities and Stockholders' Deficit		
Accounts payable	$ 13,889	$ 14,356
Accrued expenses	75,300	87,565
Deferred revenue	1,779	1,224
Lease financing obligation	2,530	2,369
Total current liabilities	93,498	105,514
Lease financing obligation	5,803	5,804
Royalty financing obligations	526,121	501,655
Secured term loans	293,176	231,624
Stockholders' deficit:		
Preferred stock, $0.01 par value; shares authorized - 5,000; no shares issued and outstanding	—	—
Common stock, $0.01 par value; shares authorized - 450,000; shares issued and outstanding – 189,491 as of June 30, 2023 and 187,906 as of December 31, 2022	1,895	1,879
Additional paid-in capital	1,191,981	1,158,118
Accumulated other comprehensive income	690	26
Accumulated deficit	(1,583,279)	(1,454,620)
Total stockholders' deficit	(388,713)	(294,597)
Total liabilities and stockholders' deficit	$ 529,885	$ 550,000

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

(In thousands, except per share data, Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	**2022**	**2023**	**2022**
Revenues	$ 82,491	$ 65,532	151,269	115,455
Expenses:				
Cost of product sales	894	246	1,825	482
Research and development	51,247	61,990	99,635	127,350
Selling, general and administrative	50,997	38,017	98,864	72,299
Royalty	56	1	63	3
Total operating expenses	103,194	100,254	200,387	200,134
Loss from operations	(20,703)	(34,722)	(49,118)	(84,679)
Interest and other income	3,750	609	7,128	663
Interest expense	(28,915)	(24,022)	(56,311)	(47,859)
Foreign currency gains (losses), net	301	132	72	(45)
Loss on extinguishment of debt	(29,019)	—	(29,019)	—
Loss before income taxes	(74,586)	(58,003)	(127,248)	(131,920)
Income tax expense	740	856	1,411	1,135
Net loss	$ (75,326)	$ (58,859)	$ (128,659)	$ (133,055)
Foreign currency translation adjustment	59	104	118	182
Unrealized gain (loss) on available for sale investments	46	(275)	546	(344)
Comprehensive loss	$ (75,221)	$ (59,030)	$ (127,995)	$ (133,217)
Basic and diluted net loss per common share	**$ (0.40)**	**$ (0.32)**	**$ (0.68)**	**$ (0.72)**
Weighted average shares outstanding	**189,118**	**185,605**	**188,815**	**185,253**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands, Unaudited)

	Six Months Ended June 30,	
	2023	**2022**
Cash flows from operating activities:		
Net loss	$ (128,659)	$ (133,055)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	812	652
Inventory obsolescence	238	—
Stock-based compensation expense	26,848	19,468
Non-cash interest expense on royalty financing obligations and secured term loan and amortization of debt issuance costs	43,935	36,725
Amortization of premium/discount on investments	(4,217)	(88)
Loss on extinguishment of debt	29,019	—
Changes in operating assets and liabilities:		
Receivables	(6,968)	(12,343)
Inventory	1,029	(7,589)
Prepaid expenses and other assets	(1,484)	(1,050)
Accounts payable and accrued expenses	(27,414)	(8,463)
Deferred revenue	535	186
Net cash used in operating activities	**(66,326)**	**(105,557)**
Cash flows from investing activities:		
Acquisitions of property and equipment	(627)	(650)
Purchase of investments	(233,530)	(139,260)
Sales and maturities of investments	108,013	4,000
Net cash used in investing activities	**(126,144)**	**(135,910)**
Cash flows from financing activities:		
Net proceeds from common stock issued under stock-based compensation plans	7,031	7,503
Net proceeds from Pharmakon Tranche A term loan	300,000	—
Repayment of Athyrium secured term loans principal	(240,452)	—
Prepayment and repayment fees on Athyrium secured term loans	(21,261)	—
Payment of debt issuance costs on Pharmakon Tranche A term loan	(10,885)	—
Net cash provided by financing activities	**34,433**	**7,503**
Effect of exchange rate on cash, cash equivalents, and restricted cash	(413)	249
Decrease in cash, cash equivalents and restricted cash	(158,450)	(233,715)
Cash, cash equivalents and restricted cash at beginning of period	306,239	507,734
Cash, cash equivalents and restricted cash at end of period	**$ 147,789**	**$ 274,019**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT

(In thousands, Unaudited)

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Deficit
Balance at December 31, 2022	**$ 1,879**	**$ 1,158,118**	**$ 26**	**$ (1,454,620)**	**$ (294,597)**
Net loss	—	—	—	(53,333)	(53,333)
Other comprehensive income	—	—	559	—	559
Employee stock purchase plan sales, 176 shares, net	2	1,573	—	—	1,575
Exercise of stock options, 801 shares, net	8	3,494	—	—	3,502
Stock-based compensation expense	—	14,007	—	—	14,007
Balance at March 31, 2023	**$ 1,889**	**$ 1,177,192**	**$ 585**	**$ (1,507,953)**	**$ (328,287)**
Net loss	—	—	—	(75,326)	(75,326)
Other comprehensive income	—	—	105	—	105
Exercise of stock options, 608 shares, net	6	1,948	—	—	1,954
Stock-based compensation expense	—	12,841	—	—	12,841
Balance at June 30, 2023	**$ 1,895**	**$ 1,191,981**	**$ 690**	**$ (1,583,279)**	**$ (388,713)**

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Deficit
Balance at December 31, 2021	**$ 1,843**	**$ 1,098,498**	**$ 177**	**$ (1,207,504)**	**$ (106,986)**
Net loss	—	—	—	(74,196)	(74,196)
Other comprehensive income	—	—	9	—	9
Employee stock purchase plan sales, 115 shares, net	1	1,503	—	—	1,504
Exercise of stock options, 1,108 shares, net	12	5,841	—	—	5,853
Stock-based compensation expense	—	9,601	—	—	9,601
Balance at March 31, 2022	**$ 1,856**	**$ 1,115,443**	**$ 186**	**$ (1,281,700)**	**$ (164,215)**
Net loss	—	—	—	(58,859)	(58,859)
Other comprehensive loss	—	—	(171)	—	(171)
Exercise of warrants, 253 shares	3	—	—	—	3
Exercise of stock options, 51 shares, net	—	145	—	—	145
Stock-based compensation expense	—	9,865	—	—	9,865
Balance at June 30, 2022	**$ 1,859**	**$ 1,125,453**	**$ 15**	**$ (1,340,559)**	**$ (213,232)**

See accompanying notes to consolidated financial statements.

BIOCRYST PHARMACEUTICALS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(In thousands, except per share amounts)
(Unaudited)

Note 1 — Significant Accounting Policies and Concentrations of Risk

The Company

BioCryst Pharmaceuticals, Inc. (the "Company") is a commercial-stage biotechnology company that discovers and commercializes novel, oral, small-molecule medicines. The Company focuses on oral treatments for rare diseases in which significant unmet medical needs exist and an enzyme plays the key role in the biological pathway of the disease. The Company was founded in 1986 and incorporated in Delaware in 1991, and its headquarters is located in Durham, North Carolina. The Company integrates the disciplines of biology, crystallography, medicinal chemistry and computer modeling to discover and develop small molecule pharmaceuticals through the process known as structure-guided drug design.

The Company's marketed products include oral, once-daily ORLADEYO® for the prevention of hereditary angioedema ("HAE") attacks and RAPIVAB® (peramivir injection) for the treatment of acute uncomplicated influenza in the United States. ORLADEYO received regulatory approval in the United States in December 2020. ORLADEYO has also received regulatory approvals in multiple global markets. The Company is commercializing ORLADEYO in each of these territories directly or through distributors, except in Japan where Torii Pharmaceutical Co., Ltd. ("Torii"), the Company's collaborative partner, has the exclusive right to commercialize ORLADEYO for the prevention of HAE attacks in exchange for certain milestone and royalty payments to the Company. In addition to its approval in the United States, peramivir injection has received regulatory approvals in Canada, Australia, Japan, Taiwan and Korea.

Based on the Company's expectations for revenue and operating expenses, the Company believes its financial resources available at June 30, 2023 will be sufficient to fund its operations for at least the next 12 months. The Company has sustained operating losses for the majority of its corporate history and expects that its 2023 expenses will exceed its 2023 revenues. The Company expects to continue to incur operating losses and negative cash flows until revenues reach a level sufficient to support ongoing operations. The Company's liquidity needs will largely be determined by the success of operations in regard to the successful commercialization of its products and the progression of its product candidates in the future. The Company regularly evaluates other opportunities to fund future operations, including: (1) out-licensing rights to certain of its products or product candidates, pursuant to which the Company would receive cash milestone payments; (2) raising additional capital through equity or debt financings or from other sources, including royalty or other monetization transactions; (3) obtaining additional product candidate regulatory approvals, which would generate revenue, milestone payments and cash flow; (4) reducing spending on one or more research and development programs, including by discontinuing development; (5) restructuring operations to change its overhead structure; and/or (6) securing U.S. Government funding of its programs, including obtaining procurement contracts. The Company may issue securities, including common stock, preferred stock, depositary shares, purchase contracts, warrants, debt securities and units, through private placement transactions or registered public offerings in the future. The Company's future liquidity needs, and ability to address those needs, will largely be determined by the success of its products and product candidates; the timing, scope and magnitude of its research and development and commercial expenses; and key developments and regulatory events and its decisions in the future.

Basis of Presentation

The consolidated financial statements include the accounts of the Company and its subsidiaries. All intercompany transactions and balances among the consolidated entities have been eliminated from the consolidated financial statements.

The Company's consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP") for interim financial reporting and the instructions to Form 10-Q and do not include all of the information and footnotes required by U.S. GAAP for complete financial statements. Such financial statements reflect all adjustments that are, in management's opinion, necessary to present fairly, in all material respects, the Company's consolidated financial position, results of operations, and cash flows. There were no adjustments other than normal recurring adjustments.

The Company has made certain presentation changes relative to its revenue, which management considers fundamental to understanding the Company's current business and financial performance related to its primary product,

ORLADEYO, including expanded international sales of ORLADEYO, relative to the Company's other sources of revenue. Accordingly, certain disaggregated revenue information has been provided in this Note 1 and "Note 2—Revenue" to these consolidated financial statements. These presentation changes have been applied to prior year revenue amounts for consistency and comparability.

These financial statements should be read in conjunction with the financial statements for the year ended December 31, 2022 and the notes thereto included in the Company's 2022 Annual Report on Form 10-K. Interim operating results are not necessarily indicative of operating results for the full year. The balance sheet as of December 31, 2022 has been derived from the audited consolidated financial statements included in the Company's most recent Annual Report on Form 10-K.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. Significant estimates in the Company's consolidated financial statements have been made relative to the calculation of net product sales, the ORLADEYO and Factor D inhibitors royalty financing obligations, inventory reserves, certain accruals, primarily related to the Company's research and development expenses, the valuation of stock options and the valuation allowance for deferred tax assets resulting from net operating losses. These estimates are based on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates.

Revenue Recognition

The Company recorded the following revenues for the three and six months ended June 30, 2023 and 2022:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	**2022**	**2023**	**2022**
Product sales, net	$ 80,504	$ 64,888	$ 148,670	$ 114,434
Collaborative and other revenues	1,987	644	2,599	1,021
Total revenues	**$ 82,491**	**$ 65,532**	**$ 151,269**	**$ 115,455**

Pursuant to Accounting Standards Codification ("ASC") Topic 606, the Company recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. To achieve this core principle, Topic 606 includes provisions within a five step model that includes (i) identifying the contract with a customer, (ii) identifying the performance obligations in the contract, (iii) determining the transaction price, (iv) allocating the transaction price to the performance obligations, and (v) recognizing revenue when, or as, an entity satisfies a performance obligation.

At contract inception, the Company identifies the goods or services promised within each contract, assesses whether each promised good or service is distinct, and determines those that are performance obligations. The Company recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when the performance obligation is satisfied.

Product Sales, Net

The Company's principal sources of product sales are sales of ORLADEYO, which the Company began shipping to patients in December 2020, sales of peramivir to the Company's licensing partners and sales of RAPIVAB to the U.S. Department of Health and Human Services ("HHS") under the Company's procurement contract. In the United States, the Company ships ORLADEYO directly to patients through a single specialty pharmacy, which is considered its customer. In the European Union, United Kingdom and elsewhere, the Company sells ORLADEYO to specialty distributors as well as hospitals and pharmacies, which collectively are considered its customers.

The Company recognizes revenue for sales when its customers obtain control of the product, which generally occurs upon delivery. For ORLADEYO, the Company classifies payments to its specialty pharmacy customer for certain services provided by its customer as selling, general and administrative expenses to the extent such services provided are determined to be distinct from the sale of its product.

Net revenue from sales of ORLADEYO is recorded at net selling price (transaction price), which includes estimates of variable consideration for which reserves are established for (i) estimated government rebates, such as Medicaid and Medicare Part D reimbursements, and estimated managed care rebates, (ii) estimated chargebacks, (iii) estimated costs of co-payment assistance programs and (iv) product returns. These reserves are based on the amounts earned or to be claimed on the related sales and are classified as reductions of accounts receivable or as a current liability. Overall, these reserves reflect the Company's best estimates of the amount of consideration to which it is entitled based on the terms of the applicable contract. The amount of variable consideration included in the transaction price may be constrained and is included in the net sales price only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue recognized will not occur in a future period. Actual amounts of consideration ultimately received may differ from the Company's estimates. If actual results in the future vary from estimates, the Company adjusts these estimates, which would affect net product revenue and earnings in the period such variances become known.

Government and Managed Care Rebates. The Company contracts with government agencies and managed care organizations or, collectively, third-party payors, so that ORLADEYO will be eligible for purchase by, or partial or full reimbursement from, such third-party payors. The Company estimates the rebates it will provide to third-party payors and deducts these estimated amounts from total gross product revenues at the time the revenues are recognized. These reserves are recorded in the same period in which the revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability. The Company estimates the rebates that it will provide to third-party payors based upon (i) the Company's contracts with these third-party payors, (ii) the government mandated discounts applicable to government-funded programs, (iii) a range of possible outcomes that are probability-weighted for the estimated payor mix, and (iv) product distribution information obtained from the Company's specialty pharmacy.

Chargebacks. Chargebacks are discounts that occur when certain contracted customers, pharmacy benefit managers, insurance companies, and government programs purchase directly from the Company's specialty pharmacy. These customers purchase the Company's products under contracts negotiated between them and the Company's specialty pharmacy. The specialty pharmacy, in turn, charges back to the Company the difference between the price the specialty pharmacy paid and the negotiated price paid by the contracted customers, which may be higher or lower than the specialty pharmacy's purchase price from the Company. The Company estimates chargebacks and adjusts gross product revenues and accounts receivable based on the estimates at the time revenues are recognized.

Co-payment assistance and patient assistance programs. Patients who have commercial insurance and meet certain eligibility requirements may receive co-payment assistance. Based upon the terms of the program and co-payment assistance utilization reports received from the specialty pharmacy, the Company is able to estimate the co-payment assistance amounts, which are recorded in the same period in which the related revenue is recognized, resulting in a reduction of product revenue. The Company also offers a patient assistance program that provides free drug product, for a limited period of time, to allow a patient's insurance coverage to be established. Based on patient assistance program utilization reports provided by the specialty pharmacy, the Company records gross revenue of the product provided and a full reduction of the revenue amount for the free drug discount.

Product returns. The Company does not provide contractual return rights to its customers, except in instances where the product is damaged or defective. Non-acceptance by the patient of shipped drug product by the specialty pharmacy is reflected as a reversal of sales in the period in which the sales were originally recorded. Reserves for estimated non-acceptances by patients are recorded as a reduction of revenue in the period that the related revenue is recognized, as well as a reduction to accounts receivable. Estimates of non-acceptance are based on quantitative information provided by the specialty pharmacy.

Collaborative and Other Revenues

The Company has collaboration and license agreements with a number of third parties, as well as research and development agreements with certain government entities. The Company's primary sources of revenue from these collaborative and other research and development arrangements are license, service and royalty revenues.

Revenue from license fees, royalty payments, milestone payments, and research and development fees are recognized as revenue when the earnings process is complete and the Company has no further continuing performance obligations or the Company has completed the performance obligations under the terms of the agreement.

Arrangements that involve the delivery of more than one performance obligation are initially evaluated as to whether the intellectual property licenses granted by the Company represent distinct performance obligations. If they are determined to be distinct, the value of the intellectual property licenses would be recognized up-front while the research and development service fees would be recognized as the performance obligations are satisfied. For performance obligations

based on services performed, the Company measures progress using an input method based on the effort it expends or costs it incurs toward the satisfaction of the performance obligation in relation to the total estimated effort or costs. Variable consideration is assessed at each reporting period as to whether it is not subject to significant future reversal and, therefore, should be included in the transaction price at the inception of the contract. If a contract includes a fixed or minimum amount of research and development support, this also would be included in the transaction price. Changes to collaborations, such as the extensions of the research term or increasing the number of targets or technology covered under an existing agreement, are assessed for whether they represent a modification or should be accounted for as a new contract. For contracts with multiple performance obligations, revenue is allocated to each performance obligation based on its relative standalone selling price. Standalone selling prices are based on observable prices at which the Company separately sells the products or services. If a standalone selling price is not directly observable, then the Company estimates the standalone selling price using either an adjusted market assessment approach or an expected cost plus margin approach, representing the amount that the Company believes the market is willing to pay for the product or service. Analyzing the arrangement to identify performance obligations requires the use of judgment, and each may be an obligation to deliver services, a right or license to use an asset, or another performance obligation.

Milestone payments are recognized as licensing revenue upon the achievement of specified milestones if (i) the milestone is substantive in nature and the achievement of the milestone was not probable at the inception of the agreement and (ii) the Company has a right to payment. Any milestone payments received prior to satisfying these revenue recognition criteria are recorded as deferred revenue.

Reimbursements received for direct out-of-pocket expenses related to research and development costs are recorded as revenue in the Consolidated Statements of Comprehensive Loss rather than as a reduction in expenses. Under the Company's contracts with the Biomedical Advanced Research and Development Authority within HHS ("BARDA/HHS") and the National Institute of Allergy and Infectious Diseases ("NIAID/HHS"), revenue is recognized as reimbursable direct and indirect costs are incurred.

Under certain of the Company's license agreements, the Company receives royalty payments based upon its licensees' net sales of covered products. Royalties are recognized at the later of when (i) the subsequent sale or usage occurs, or (ii) the performance obligation to which some or all of the sales-based or usage-based royalty has been satisfied.

Cash and Cash Equivalents

The Company generally considers cash equivalents to be all cash held in commercial checking accounts, certificates of deposit, money market accounts or investments in debt instruments with maturities of three months or less at the time of purchase. The carrying value of cash and cash equivalents approximates fair value due to the short-term nature of these items.

Restricted Cash

Total restricted cash was $1,574 and $1,472 as of June 30, 2023 and December 31, 2022, respectively, and primarily consisted of $1,457 and $1,449 as of June 30, 2023 and December 31, 2022, respectively, for a letter of credit the Company is required to maintain associated with the lease execution and build-out of its Birmingham research facilities.

Investments

The Company invests in high credit quality investments in accordance with its investment policy, which is designed to minimize the possibility of loss. The objective of the Company's investment policy is to ensure the safety and preservation of invested funds, as well as maintaining liquidity sufficient to meet cash flow requirements. The Company places its excess cash with high credit quality financial institutions, commercial companies, and government agencies in order to limit the amount of its credit exposure. In accordance with its policy, the Company is able to invest in marketable debt securities that may consist of U.S. Government and government agency securities, money market and mutual fund investments, certificates of deposits, municipal and corporate notes and bonds, and commercial paper, among others. The Company's investment policy requires it to purchase high-quality marketable securities with a maximum individual maturity of three years and requires an average portfolio maturity of no more than 12 months. Some of the securities in which the Company invests may have market risk. This means that a change in prevailing interest rates may cause the principal amount of the investment to fluctuate. To minimize this risk, the Company schedules its investments with maturities that coincide with expected cash flow needs, thus avoiding the need to redeem an investment prior to its maturity date. Accordingly, the Company does not believe it has a material exposure to interest rate risk arising from its investments. Generally, the Company's investments are not collateralized. The Company has not realized any significant losses from its investments.

The Company classifies all of its investments as available-for-sale. Unrealized gains and losses on investments are recognized in comprehensive loss, unless an unrealized loss is considered to be other than temporary, in which case the unrealized loss is charged to operations. The Company periodically reviews its investments for other than temporary declines in fair value below cost basis and whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company believes the individual unrealized losses represent temporary declines primarily resulting from interest rate changes. Realized gains and losses are reflected in interest and other income in the Consolidated Statements of Comprehensive Loss and are determined using the specific identification method with transactions recorded on a settlement date basis. Investments with original maturities at date of purchase beyond three months and which mature at or less than 12 months from the balance sheet date are classified as current. Investments with a maturity beyond 12 months from the balance sheet date are classified as long-term. At June 30, 2023, the Company believes that the cost of its investments is recoverable in all material respects.

Trade Receivables

The majority of the Company's trade receivables arise from product sales and primarily represent amounts due from its specialty pharmacy customer in the United States and other third-party distributors, hospitals and pharmacies in the European Union, United Kingdom and elsewhere and have standard payment terms that generally require payment within 30 to 90 days.

Receivables from collaborations are recorded for amounts due to the Company related to reimbursable research and development costs from HHS, and royalty receivables from the Company's partners, including Shionogi & Co., Ltd. ("Shionogi"), Green Cross, and Torii.

Monthly invoices are submitted to HHS related to reimbursable research and development costs. The Company is also entitled to monthly reimbursement of indirect costs based on rates stipulated in the underlying contract. The Company's calculations of its indirect cost rates are subject to audit by the U.S. Government.

The Company does not adjust its receivables for the effects of a significant financing component at contract inception if it expects to collect the receivables in one year or less from the time of sale.

The Company provides reserves against trade receivables for estimated losses that may result from a customer's inability to pay. Receivables are evaluated to determine if any reserve or allowance should be recorded based on consideration of the current economic environment, expectations of future economic conditions, specific circumstances and the Company's own historical collection experience. Amounts determined to be uncollectible are charged or written-off against the reserve.

Inventory

The Company's inventories primarily relate to ORLADEYO. Additionally, the Company's inventories include RAPIVAB and peramivir.

The Company values its inventories at the lower of cost or estimated net realizable value. The Company determines the cost of its inventories, which includes amounts related to materials, labor, manufacturing overhead and shipping and handling costs on a first-in, first-out (FIFO) basis. Raw materials and work-in-process include all inventory costs prior to packaging and labeling, including raw material, active product ingredient, and the drug product. Finished goods include packaged and labeled products.

The Company's inventories are subject to expiration dating. The Company regularly evaluates the carrying value of its inventories and provides valuation reserves for any estimated obsolete, short-dated or unmarketable inventories. In addition, the Company may experience spoilage of its raw materials and supplies. The Company's determination that a valuation reserve might be required, in addition to the quantification of such reserve, requires it to utilize significant judgment. During the six months ended June 30, 2023, the Company evaluated its inventory levels and associated expiration dating relative to the latest sales forecasts for ORLADEYO and RAPIVAB and estimated those inventories at risk of obsolescence. Accordingly, the Company recorded an increase to the inventory valuation reserve of $238 for a total reserve of $1,415 as of June 30, 2023.

The Company expenses costs related to the production of inventories as research and development expenses in the period incurred until such time it is believed that future economic benefit is expected to be recognized, which generally is upon receipt of regulatory approval. Upon regulatory approval, the Company capitalizes subsequent costs related to the production of inventories.

Property and Equipment

Property and equipment are recorded at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. Computer equipment is depreciated over a life of three years. Laboratory equipment, office equipment, and software are depreciated over a life of five years. Furniture and fixtures are depreciated over a life of seven years. Leasehold improvements are amortized over their estimated useful lives or the expected lease term, whichever is less.

In accordance with U.S. GAAP, the Company periodically reviews its property and equipment for impairment when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Determination of recoverability is based on an estimate of undiscounted future cash flows resulting from the use of the asset and its eventual disposition. In the event that such cash flows are not expected to be sufficient to recover the carrying amount of the assets, the assets are written down to their estimated fair values. Property and equipment to be disposed of are reported at the lower of carrying amount or fair value less cost to sell.

Accrued Expenses

The Company enters into contractual agreements with third-party vendors who provide research and development, manufacturing, distribution, and other services in the ordinary course of business. Some of these contracts are subject to milestone-based invoicing, and services are completed over an extended period of time. The Company records liabilities under these contractual commitments when it determines an obligation has been incurred, regardless of the timing of the invoice. This process involves reviewing open contracts and purchase orders, communicating with applicable Company personnel to identify services that have been performed on its behalf and estimating the level of service performed and the associated cost incurred for the service when the Company has not yet been invoiced or otherwise notified of actual cost. The majority of service providers invoice the Company monthly in arrears for services performed. The Company makes estimates of accrued expenses as of each balance sheet date in its financial statements based on the facts and circumstances, which can include assumptions such as expected patient enrollment, site activation and estimated project duration. The Company periodically confirms the accuracy of its estimates with the service providers and makes adjustments if necessary. Examples of estimated accrued expenses include (i) fees paid to clinical research organizations (“CROs”) in connection with preclinical and toxicology studies and clinical trials; (ii) fees paid to investigative sites in connection with clinical trials; (iii) fees paid to contract manufacturers in connection with the production of the Company’s raw materials, drug substance, drug products, and product candidates; and (iv) professional fees.

The Company bases its expenses related to clinical trials on its estimates of the services received and efforts expended pursuant to contracts with multiple research institutions and CROs that conduct and manage clinical trials on the Company’s behalf. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. Payments under some of these contracts depend on factors such as the successful enrollment of patients and the completion of clinical trial milestones. In accruing service fees, the Company estimates the time period over which services will be performed and the level of effort expended in each period. If the actual timing of the performance of services or the level of effort varies from the estimate, the Company will adjust the accrual accordingly. If the Company does not identify costs that it has begun to incur or if it underestimates or overestimates the level of these costs, actual expenses could differ from such estimates. As of June 30, 2023 and December 31, 2022, the carrying value of accrued expenses approximates their fair value due to their short-term settlement.

Cost of Product Sales

Cost of product sales includes the cost of producing and distributing inventories that are related to product revenue during the respective period, including freight. In addition, shipping and handling costs for product shipments are recorded as incurred. Finally, cost of product sales may also include costs related to excess or obsolete inventory adjustment charges.

Research and Development Expenses

The Company’s research and development costs are charged to expense when incurred. Research and development expenses include all direct and indirect development costs related to the development of the Company’s portfolio of product candidates. Advance payments for goods or services that will be used or rendered for future research and development activities are deferred and capitalized. Such amounts are recognized as expense when the related goods are delivered or the related services are performed. Research and development expenses include, among other items, personnel costs, including salaries and benefits, manufacturing costs, clinical, regulatory, and toxicology services performed by CROs, materials and supplies, and overhead allocations consisting of various administrative and facilities related costs, as well as termination fees and other commitments associated with discontinued programs. Most of the Company’s

manufacturing and clinical and preclinical studies are performed by third-party CROs. Costs for studies performed by CROs are accrued by the Company over the service periods specified in the contracts, and estimates are adjusted, if required, based upon the Company's ongoing review of the level of services actually performed.

Additionally, the Company has license agreements with third parties which require fees related to sublicense agreements or maintenance fees. The Company expenses sublicense payments as incurred unless they are related to revenues that have been deferred, in which case the expenses are deferred and recognized over the related revenue recognition period. The Company expenses maintenance payments as incurred.

Deferred collaboration expenses represent sublicense payments paid to the Company's academic partners upon receipt of consideration from various commercial partners, and other consideration paid to the Company's academic partners for modification to existing license agreements. These deferred expenses would not have been incurred without receipt of such payments or modifications from the Company's commercial partners and are being expensed in proportion to the related revenue being recognized. The Company believes that this accounting treatment appropriately matches expenses with the associated revenue.

The Company groups its research and development expenses into two major categories: direct expenses and indirect expenses. Direct expenses consist of compensation for research and development personnel and costs of outside parties to conduct laboratory studies, develop manufacturing processes and manufacture the product candidate, conduct and manage clinical trials, as well as other costs related to the Company's clinical and preclinical studies. Additionally, direct expenses consist of those costs necessary to discontinue and close out a development program, including termination fees and other commitments. These costs are accumulated and tracked by active program. Indirect expenses consist of lab supplies and services, facility expenses, depreciation of development equipment and other overhead of the Company's research and development efforts. These costs apply to work on non-active product candidates and the Company's discovery research efforts.

Selling, General and Administrative Expenses

Selling, general and administrative expense is primarily comprised of compensation and benefits associated with sales and marketing, finance, human resources, legal, information technology and other administrative personnel. Additionally, selling, general and administrative expenses are comprised of market research, marketing, advertising and legal expenses, including patent costs, licenses and other general and administrative costs.

Advertising expenses related to ORLADEYO were $3,290 and $4,095 for the three months ended June 30, 2023, and 2022, respectively, and $7,337 and $8,079 for the six months ended June 30, 2023, and 2022, respectively.

All patent related costs are expensed to selling, general and administrative expenses when incurred as recoverability of such expenditures is uncertain.

Leases

The Company leases certain assets, predominantly under operating leases, which consist of real estate leases, laboratory equipment leases and office equipment leases as of June 30, 2023. The Company accounts for lease obligations in accordance with ASU 2016-02: *Leases (Topic 842)*, which requires a lessee to recognize a right-of-use asset and a lease liability on its balance sheet for most leases.

Certain of the Company's operating leases provide for renewal options, which can vary by lease. The right-of-use asset and lease liabilities on the Company's Consolidated Balance Sheets represent payments over the lease term, which includes renewal options for certain real estate leases that the Company is likely to exercise. As part of the Company's assessment of the lease term, the Company elected the hindsight practical expedient, which allows companies to use current knowledge and expectations when determining the likelihood to extend lease options. Certain operating leases include rent escalation provisions, which the Company recognizes as expense on a straight-line basis. Lease expense for leases with an initial term of twelve months or less was not material.

The discount rate used in the calculation of the Company's right-of-use asset and lease liability was determined based on the stated rate within each contract when available, or the Company's collateralized borrowing rate from lending institutions.

The Company has not made any residual value guarantees related to its leases; therefore, the Company has no corresponding liability recorded on its Consolidated Balance Sheets.

Stock-Based Compensation

All share-based payments, including grants of stock option awards and restricted stock unit awards, are recognized in the Company's Consolidated Statements of Comprehensive Loss based on their fair values. Stock-based compensation cost is estimated at the grant date based on the fair value of the award and is recognized as expense on a straight-line basis over the requisite service period of the award. Determining the appropriate fair value model and the related assumptions for the model requires judgment, including estimating the life of an award, the stock price volatility, and the expected term. The Company utilizes the Black-Scholes option-pricing model to value its stock option awards and recognize compensation expense on a straight-line basis over the vesting periods. The estimation of share-based payment awards that will ultimately vest requires judgment, and to the extent actual results or updated estimates differ from the Company's current estimates, such amounts will be recorded as a cumulative adjustment in the period estimates are revised. In addition, the Company has outstanding performance-based stock options and restricted stock units for which no compensation expense is recognized until "performance" is deemed to have occurred. Significant management judgment is also required in determining estimates of future stock price volatility and forfeitures to be used in the valuation of the options. Actual results, and future changes in estimates, may differ substantially from the Company's current estimates.

Interest Expense and Deferred Financing Costs

Interest expense for the three and six months ended June 30, 2023 was $28,915 and $56,311, respectively, and $24,022 and $47,859 for the three and six months ended June 30, 2022, respectively. Interest expense primarily relates to the royalty financing obligations (Note 6) and the secured term loan borrowings under the Athyrium Credit Agreement during 2022 and the term loan borrowings under both the Athyrium Credit Agreement and the Pharmakon Loan Agreement during 2023 (Note 7). On April 17, 2023, the Company entered into the Pharmakon Loan Agreement and received initial funding in the form of a term loan of $300,000, the proceeds of which were primarily used to repay the term loan borrowings under the Athyrium Credit Agreement. Accordingly, interest expense for both the three and six months ended June 30, 2023 includes interest expense from both the Athyrium Credit Agreement and the Pharmakon Loan Agreement. Costs directly associated with the borrowings have been capitalized and are netted against the corresponding debt liabilities on the Consolidated Balance Sheets. These costs are being amortized to interest expense over the terms of the corresponding borrowings using the effective interest rate method. Amortization of deferred financing costs included in interest expense was $408 and $1,306 for the three and six months ended June 30, 2023, respectively, and $(172) and $(339) for the three and six months ended June 30, 2022, respectively. When utilizing the effective interest method, in periods in which PIK interest was designated and was added to the outstanding principal balance of the borrowing, the amortization of the deferred debt fees and issuance costs was accretive. The quarter ended December 31, 2022 was the last period eligible for the PIK Interest Payment designation under the Athyrium Credit Agreement.

Interest Expense and Royalty Financing Obligations

The royalty financing obligations are eligible to be repaid based on royalties from net sales of ORLADEYO and BCX10013. Interest expense is accrued using the effective interest rate method over the estimated period each of the related liabilities will be paid. This requires the Company to estimate the total amount of future royalty payments to be generated from product sales over the life of the agreement. The Company imputes interest on the carrying value of each of the royalty financing obligations and records interest expense using an imputed effective interest rate. The Company reassesses the expected royalty payments each reporting period and accounts for any changes through an adjustment to the effective interest rate on a prospective basis. The assumptions used in determining the expected repayment term of the debt and amortization period of the issuance costs require that the Company make estimates that could impact the carrying value of each of the liabilities, as well as the periods over which associated issuance costs will be amortized. A significant increase or decrease in forecasted net sales could materially impact each of the liability balances, interest expense and the time periods for repayment.

Income Taxes

The liability method is used in the Company's accounting for income taxes. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse.

The Company accounts for uncertain tax positions in accordance with U.S. GAAP. Significant management judgment is required in determining the Company's provision for income taxes, deferred tax assets and liabilities and any valuation allowance recorded against net deferred tax assets. The Company has recorded a valuation allowance against substantially all potential tax assets, due to uncertainties in its ability to utilize deferred tax assets, primarily consisting of certain net operating losses carried forward, before they expire. The valuation allowance is based on estimates of taxable

income in each of the jurisdictions in which the Company operates and the period over which its deferred tax assets will be recoverable.

Beginning in fiscal year 2021, the Company began accruing for U.S. state taxes and foreign income taxes as a result of increased nexus in both U.S. state and foreign jurisdictions where historically the Company had no presence.

In addition, starting in 2022, amendments to Section 174 of the Internal Revenue Code of 1986, as amended ("IRC"), no longer permit an immediate deduction for research and development expenditures in the tax year that such costs are incurred. Instead, these IRC Section 174 development costs must now be capitalized and amortized over either a five- or 15-year period, depending on the location of the activities performed. The new amortization period begins with the midpoint of any taxable year that IRC Section 174 costs are first incurred, regardless of whether the expenditures were made prior to or after July 1, and runs until the midpoint of year five for activities conducted in the United States or year 15 in the case of development conducted on foreign soil.

Net Loss Per Share

Net loss per share is based upon the weighted average number of common shares outstanding during the period. Diluted loss per share is equivalent to basic net loss per share for all periods presented herein because common equivalent shares from unexercised stock options, warrants and common shares expected to be issued under the Company's equity compensation plans were anti-dilutive. The calculation of diluted earnings per share does not include 19,770 and 20,948 shares of potential common stock for the three and six months ended June 30, 2023, respectively, and 23,090 and 25,877 shares of potential common stock for the three and six months ended June 30, 2022, respectively, as their impact would be anti-dilutive.

Accumulated Other Comprehensive Income

Accumulated other comprehensive income is comprised of cumulative foreign currency translation adjustments and unrealized gains and losses on available-for-sale investments and is disclosed as a separate component of stockholders' equity. Realized gain and loss amounts on available-for-sale investments are reclassified from accumulated other comprehensive income and recorded as interest and other income on the Consolidated Statements of Comprehensive Loss. There were no realized gains or losses reclassified out of accumulated other comprehensive income for the six months ended June 30, 2023 and 2022.

Significant Customers and Other Risks

Significant Customers

The Company's primary sources of revenue and cash flow are the sales of ORLADEYO in the United States and other global markets and, for 2022, sales of RAPIVAB (peramivir injection) under the Company's procurement contract with the Assistant Secretary for Preparedness and Response within HHS.

ORLADEYO is distributed through an arrangement with a single specialty pharmacy in the United States, which represents the substantial majority of the ORLADEYO net product sales. The specialty pharmacy subsequently sells ORLADEYO to its customers (pharmacy benefit managers, insurance companies, government programs and group purchasing organizations) and dispenses product to patients. The specialty pharmacy's inability or unwillingness to continue these distribution activities could adversely impact the Company's business, results of operations and financial condition.

The Company is distributing ORLADEYO in other global markets directly or through distributors, except in Japan where Torii, the Company's collaborative partner, has the exclusive right to commercialize ORLADEYO.

Further, the Company's drug development activities are performed by a limited group of third-party vendors. If any of these vendors were unable to perform its services, this could significantly impact the Company's ability to complete its drug development activities.

Risks from Third-Party Manufacturing and Distribution Concentration

The Company relies on a single source manufacturer for active pharmaceutical ingredient and finished drug product manufacturing of product candidates in development and on a single specialty pharmacy for distribution of approved drug product in the United States. Delays or disruption in the manufacture or distribution of any product could adversely impact the future procurement stockpiling of the Company's commercial product, commercial revenue and product candidates.

Credit Risk

Cash equivalents and investments are financial instruments that potentially subject the Company to concentration of risk to the extent recorded on the Consolidated Balance Sheets. The Company deposits excess cash with major financial institutions in the United States. Balances may exceed the amount of insurance provided on such deposits. The Company believes it has established guidelines for investment of its excess cash relative to diversification and maturities that maintain safety and liquidity. To minimize the exposure due to adverse shifts in interest rates, the Company maintains a portfolio of investments with an average maturity of approximately 12 months or less.

The Company's receivables from sales of ORLADEYO are primarily due from one customer, resulting in a concentration of credit risk. Sales of ORLADEYO from the Company to the specialty pharmacy only occur once an order of product has been received by the specialty pharmacy from one of its customers, which include pharmacy benefit managers, insurance companies, government programs and group purchasing organizations.

The majority of the Company's receivables from collaborations are due from the U.S. Government, for which there is no assumed credit risk.

Recently Adopted Accounting Pronouncements

There have been no new accounting pronouncements adopted by the Company or new accounting pronouncements issued by the Financial Accounting Standards Board during the six months ended June 30, 2023, as compared to the recent accounting pronouncements described in Note 1 of the Company's Annual Report on Form 10-K for the year ended December 31, 2022, that the Company believes are of significance or potential significance to the Company.

Note 2 — Revenue

The Company recorded the following revenues (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	**2022**	**2023**	**2022**
ORLADEYO:				
U.S.	$ 72,817	$ 58,702	$ 133,666	$ 102,637
Outside of U.S.	8,192	6,521	15,757	12,290
Total ORLADEYO	81,009	65,223	149,423	114,927
Other revenues	1,482	309	1,846	528
Total revenues	$ 82,491	$ 65,532	$ 151,269	$ 115,455

ORLADEYO revenues represent total revenues from product sales, collaborative revenues and royalties. Other revenues primarily relate to the Company's galidesivir development contracts with BARDA/HHS and NIAID/HHS and product sales and royalties for peramivir injection (RAPIVAB/RAPIACTA/PERAMIFLU).

Note 3 — Investments

The following tables summarize the fair value of the Company's investments by type. The estimated fair values of the Company's fixed income investments are classified as Level 2 in the fair value hierarchy as defined in U.S. GAAP. These valuations are based on observable direct and indirect inputs, primarily quoted prices of similar, but not identical,

instruments in active markets or quoted prices for identical or similar instruments in markets that are not active. These fair values are obtained from independent pricing services which utilize Level 2 inputs.

	June 30, 2023				
	Amortized Cost	Accrued Interest	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Obligations of U.S. Government and its agencies	$ 264,786	$ 323	$ 9	$ (489)	$ 264,629
Corporate debt securities	2,055	2	—	(11)	2,046
Certificates of deposit	1,224	17	—	(16)	1,225
Total investments	$ 268,065	$ 342	$ 9	$ (516)	$ 267,900

	December 31, 2022				
	Amortized Cost	Accrued Interest	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Obligations of U.S. Government and its agencies	$ 129,940	$ 427	$ —	$ (996)	$ 129,371
Corporate debt securities	6,093	37	—	(38)	6,092
Certificates of deposit	2,163	23	—	(29)	2,157
Total investments	$ 138,196	$ 487	$ —	$ (1,063)	$ 137,620

The following table summarizes the scheduled maturity for the Company's investments at June 30, 2023 and December 31, 2022:

	June 30, 2023	December 31, 2022
Maturing in one year or less	$ 264,455	$ 119,543
Maturing after one year through two years	3,445	18,077
Total investments	$ 267,900	$ 137,620

Note 4 — Trade Receivables

Product Sales

Receivables from product sales are recorded for amounts due to the Company related to sales of ORLADEYO and RAPIVAB. At June 30, 2023 and December 31, 2022, receivables related to sales of ORLADEYO were $55,482 and $41,508, respectively. At June 30, 2023 and December 31, 2022, receivables related to sales of RAPIVAB were $114 and $823, respectively. No reserve or allowance amounts were recorded as of June 30, 2023 and December 31, 2022.

Collaborations

Receivables from collaborations were as follows (in thousands):

	June 30, 2023		
	Billed	Unbilled	Total
U.S. Department of Health and Human Services, net	$ —	$ 113	$ 113
Royalty receivables from partners	1,958	—	1,958
Total receivables	$ 1,958	$ 113	$ 2,071

	December 31, 2022		
	Billed	Unbilled	Total
U.S. Department of Health and Human Services, net	$ 7,218	$ 284	$ 7,502
Royalty receivables from partners	741	—	741
Other collaborations	—	25	25
Total receivables	$ 7,959	$ 309	$ 8,268

As of both June 30, 2023 and December 31, 2022, the Company maintained a reserve of $437 related to royalties associated with Green Cross.

Note 5 — Inventory

At June 30, 2023 and December 31, 2022, the Company's inventory primarily related to ORLADEYO. Additionally, inventory included RAPIVAB and peramivir, which is manufactured for the Company's partners.

The Company's inventories consisted of the following (in thousands):

	June 30, 2023	December 31, 2022
Raw materials	$ 8,867	$ 8,906
Work-in-process	14,505	14,990
Finished goods	5,076	4,814
Total inventory	$ 28,448	$ 28,710
Reserves	(1,415)	(1,177)
Total inventory, net	$ 27,033	$ 27,533

Note 6 — Royalty Monetizations

ORLADEYO and Factor D Inhibitors

On December 7, 2020, the Company and RPI 2019 Intermediate Finance Trust ("RPI") entered into a Purchase and Sale Agreement (the "2020 RPI Royalty Purchase Agreement"), pursuant to which the Company sold to RPI the right to receive certain royalty payments from the Company for a purchase price of $125,000 in cash (the "2020 RPI Royalty Sale"). Under the 2020 RPI Royalty Purchase Agreement, RPI is entitled to receive tiered, sales-based royalties on net product sales of ORLADEYO in the United States and certain key European markets (collectively, the "Key Territories"), and other markets where the Company sells ORLADEYO directly or through distributors (collectively, the "Direct Sales") in an amount equal to: (i) 8.75% of aggregate annual net sales of ORLADEYO for annual net sales up to $350,000 and (ii) 2.75% of annual net sales for annual net sales between $350,000 and $550,000. No royalty payments are payable on annual Direct Sales over $550,000.

Under the 2020 RPI Royalty Purchase Agreement, RPI is also entitled to receive a tiered revenue share on ORLADEYO sublicense revenue or net sales by licensees outside of the Key Territories (the "Other Markets") equal to: (i) 20% of the proceeds received by the Company for upfront license fees and development milestones for ORLADEYO in the Other Markets; (ii) 20% of proceeds received on annual net sales of up to $150,000 in the Other Markets; and (iii) 10% of proceeds received by the Company on annual net sales between $150,000 and $230,000 in the Other Markets. No royalty payments are payable on annual net sales above $230,000 in the Other Markets.

On November 19, 2021, the Company and RPI entered into (i) a Purchase and Sale Agreement (the "2021 RPI Royalty Purchase Agreement" and together with the 2020 RPI Royalty Purchase Agreement, the "RPI Royalty Purchase Agreements"), pursuant to which the Company sold to RPI the right to receive certain royalty payments from the Company for a purchase price of $150,000 in cash, and (ii) a Purchase and Sale Agreement with OCM IP Healthcare Holdings Limited, an affiliate of OMERS Capital Markets ("OMERS") (the "OMERS Royalty Purchase Agreement" and collectively with the RPI Royalty Purchase Agreements, the "Royalty Purchase Agreements"), pursuant to which the Company sold to OMERS the right to receive certain royalty payments from the Company for a purchase price of an additional $150,000 in cash.

Under the 2021 RPI Royalty Purchase Agreement, RPI is entitled to receive tiered, sales-based royalties on Direct Sales in an amount equal to: (i) 0.75% of aggregate annual net sales of ORLADEYO for annual net sales up to $350,000 and (ii) 1.75% of annual net sales of ORLADEYO for annual net sales between $350,000 and $550,000. No royalty payments are payable on Direct Sales over $550,000. RPI is also entitled to receive a tiered revenue share on ORLADEYO sublicense revenue or net sales by licensees in the Other Markets in an amount equal to 3.0% of proceeds received by the Company on annual net sales of up to $150,000 in the Other Markets, and (iii) 2.0% of proceeds received by the Company on annual net sales between $150,000 and $230,000 in the Other Markets. No royalty payments are payable on annual net sales above $230,000 in the Other Markets.

Under the 2021 RPI Royalty Purchase Agreement, RPI is also entitled to receive tiered, sales-based royalties on net product sales of BCX10013 in an amount equal to: (i) 3.0% of worldwide aggregate annual net sales up to $1,500,000 and (ii) 2.0% of worldwide aggregate annual net sales between $1,500,000 and $3,000,000. No royalty payments are payable on annual net sales above $3,000,000. RPI is also entitled to receive tiered profit share amounts of up to 3.0% from certain other permitted sales in certain other markets.

The royalties payable under the 2021 RPI Royalty Purchase Agreement are in addition to the royalties payable to RPI under the 2020 RPI Royalty Purchase Agreement.

Under the OMERS Royalty Purchase Agreement, commencing with the calendar quarter beginning October 1, 2023, OMERS will be entitled to receive tiered, sales-based royalties on Direct Sales in an amount equal to: (i) 7.5% of aggregate annual net sales of ORLADEYO for annual net sales up to $350,000 and (ii) 6.0% of annual net sales of ORLADEYO for annual net sales between $350,000 and $550,000 (with no royalty payments payable on annual Direct Sales over $550,000) (the “Regime A Royalty Rate”). If annual Direct Sales for calendar year 2023 reach a specified amount set forth in the OMERS Royalty Purchase Agreement, then for each calendar quarter beginning on or after January 1, 2024, OMERS will be entitled to receive the Regime A Royalty Rate. If annual Direct Sales for calendar year 2023 are less than the specified amount, OMERS will be entitled to receive tiered, sales-based royalties on Direct Sales in an amount equal to: (i) 10.0% of aggregate annual net sales of ORLADEYO for annual net sales up to $350,000 and (ii) 3.0% of annual net sales of ORLADEYO for annual net sales between $350,000 and $550,000 (with no royalty payments payable on annual Direct Sales over $550,000) (the “Regime B Royalty Rate”).

Under the OMERS Royalty Purchase Agreement, OMERS is also entitled to receive a tiered revenue share on ORLADEYO sublicense revenue or net sales by licensees in the Other Markets in an amount equal to: (i) 20.0% of the proceeds received by the Company for upfront license fees and development milestones for ORLADEYO in the Other Markets, (ii) 20.0% of proceeds received by the Company on annual net sales of up to $150,000 in the Other Markets, and (iii) 10.0% of proceeds received by the Company on annual net sales between $150,000 and $230,000 in the Other Markets. No royalty payments are payable on annual net sales above $230,000 in the Other Markets. OMERS is also entitled to receive profit share amounts of up to 10% from certain other permitted sales in certain other markets.

Under the 2020 RPI Royalty Purchase Agreement, the Company is required to make royalty payments of amounts owed to RPI each calendar quarter following the first commercial sale of ORLADEYO in any country. Under the 2021 RPI Royalty Purchase Agreement, the Company is required to make payments to RPI in respect of net sales or sublicense revenue in each calendar quarter from and after October 1, 2021. Under the OMERS Royalty Purchase Agreement, the Company will be required to make payments to OMERS is respect of net sales or sublicense revenue in each calendar quarter from and after October 1, 2023. OMERS will no longer be entitled to receive any payments on the date in which aggregate payments actually received by OMERS equals either 142.5% or 155.0% of the $150,000 purchase price, depending on sales levels in calendar year 2023.

The transactions contemplated by each of the Royalty Purchase Agreements are referred to herein as the “Royalty Sales”.

Under the Royalty Purchase Agreements, the Company has agreed to specified affirmative and negative covenants, including covenants regarding periodic reporting of information by the Company to RPI and OMERS, third-party audits of royalties paid under the Royalty Purchase Agreements, and restrictions on the ability of the Company or any of its subsidiaries to incur indebtedness other than certain royalty sales and as was permitted to be incurred under the terms of the Athyrium Credit Agreement (as defined in Note 7 herein) through its payoff and termination on April 17, 2023 or, subsequent to that date, the Pharmakon Loan Agreement (as defined in Note 7 herein), as applicable. See “Note 7—Debt” for further details on the Athyrium Credit Agreement and the Pharmakon Loan Agreement. The restrictions under the Royalty Purchase Agreements on the ability of the Company or any of its subsidiaries to incur indebtedness are eliminated after the achievement of certain specified milestones in the Royalty Purchase Agreements.

The cash consideration obtained pursuant to the Royalty Purchase Agreements is recorded in "Royalty financing obligations" on the Company's Consolidated Balance Sheets. The fair value for the royalty financing obligations at the time of the transactions was based on the Company's estimates of future royalties expected to be paid to the counterparty over the life of the arrangement. The Company subsequently records the obligations at its carrying value using the effective interest method. In order to amortize the royalty financing obligations, the Company utilizes the prospective method to estimate the future royalties to be paid by the Company to the counterparty over the life of the arrangement. Under the prospective method, a new effective interest rate is determined based on the revised estimate of remaining cash flows. The new rate is the discount rate that equates the present value of the revised estimate of remaining cash flows with the carrying amount of the debt, and it will be used to recognize interest expense for the remaining periods. The Company periodically assesses the amount and timing of expected royalty payments using a combination of internal projections and forecasts from external sources. The estimates of future net product sales (and resulting royalty payments) are based on key assumptions including population, penetration, probability of success, and sales price, among others. To the extent such payments are greater or less than the Company's initial estimates or the timing of such payments is materially different than its original estimates, the Company will prospectively adjust the amortization of the royalty financing obligations and the effective interest rate.

During the three months ended June 30, 2023, the Company adjusted its forecasts related to its BCX10013 program and updated its ORLADEYO forecast based on actual results for the first half of 2023. These adjustments impacted the amount and timing of expected royalties to be made under the RPI Royalty Purchase Agreements. As a result, the effective interest rate related to the 2020 RPI Royalty Purchase Agreement decreased from 22.4% to 22.2% and the effective interest rate related to the 2021 RPI Royalty Purchase Agreement decreased from 13.1% to 10.0%. There was no impact to the OMERS Royalty Purchase Agreement, thus the effective interest rate remained at 10.6%.

The following table shows the activity within the Royalty financing obligations account (in thousands) as well as the effective interest rate as of June 30, 2023:

	2020 RPI Royalty Agreement	2021 RPI Royalty Agreement	OMERS Royalty Agreement	Total
Balance as of December 31, 2022	$ 164,981	$ 173,651	$ 163,023	$ 501,655
Non-cash Interest expense on Royalty financing obligations	9,309	5,680	4,329	19,318
Royalty revenues paid and payable	(6,038)	(524)	—	(6,562)
Balance as of March 31, 2023	$ 168,252	$ 178,807	$ 167,352	$ 514,411
Non-cash Interest expense on Royalty financing obligations	9,552	5,440	4,494	19,486
Royalty revenues paid and payable	(7,155)	(621)	—	(7,776)
Balance as of June 30, 2023	$ 170,649	$ 183,626	$ 171,846	$ 526,121
Effective interest rate	22.2 %	10.0 %	10.6 %	

The Royalty financing obligations liabilities and the associated deferred issuance costs are amortized using the effective interest method over the term of the arrangement, in accordance with the respective guidance.

Concurrent with entering into the 2021 RPI Royalty Purchase Agreement, the Company and RPI entered into a Common Stock Purchase Agreement (the "Common Stock Purchase Agreement"), pursuant to which the Company sold common stock to RPI for a premium of $4,269. This premium has been deferred and is being amortized through interest expense using the effective interest method over the term of the applicable arrangement. See "Note 9— Stockholders' Equity" for further details on the common stock sale premium.

Note 7 — Debt

Pharmakon Loan Agreement

On April 17, 2023, the Company entered into a $450,000 Loan Agreement (the "Pharmakon Loan Agreement") with BioPharma Credit Investments V (Master) LP and BPCR Limited Partnership, as lenders, and BioPharma Credit PLC, as collateral agent for the lenders. Certain of the Company's wholly-owned subsidiaries are guarantors to the Pharmakon

Loan Agreement. The Pharmakon Loan Agreement provides for an initial term loan in the principal amount of $300,000 (the "Tranche A Loan") funded on April 17, 2023 (the "Tranche A Closing Date"). The Company used a portion of the proceeds from the Tranche A Loan to repay the $241,787 of outstanding indebtedness (principal and interest due as of April 17, 2023) under the then-existing Athyrium Credit Agreement and pay associated transaction costs and fees, and intends to use the remaining net proceeds of $26,068 for other general corporate purposes.

The Pharmakon Loan Agreement also provides for three additional term loan tranches, at the Company's option, in principal amounts of $50,000 each (each a "Subsequent Tranche Loan" and, collectively with the Tranche A Loan, the "Pharmakon Term Loans" and each, a "Pharmakon Term Loan"), which may be requested on or prior to September 30, 2024. The maturity date of the Pharmakon Loan Agreement is April 17, 2028 (the "Maturity Date"), the fifth anniversary of the Tranche A Closing Date.

The Pharmakon Loan Agreement provides for quarterly interest-only payments until the Maturity Date, with the unpaid principal amount of the outstanding Pharmakon Term Loans due and payable on the Maturity Date. During the first 18 months following the Tranche A Closing Date, the Company has the option to make a portion of the applicable interest payment on the Tranche A Loan in-kind (a "Pharmakon PIK Interest Payment") by capitalizing as principal up to 50% of the amount of interest accrued on the Tranche A Loan during the applicable interest period. The Pharmakon Term Loans will bear interest at a rate equal to the three-month Secured Overnight Financing Rate ("SOFR") rate, which shall be no less than 1.75%, plus 7.00%, per annum or, for each interest period in which a Pharmakon PIK Interest Payment is made, with respect to the Tranche A Loan, SOFR plus 7.25%, per annum.

The Tranche A Loan accrued interest at an effective interest rate of 12.24% for the three months ended June 30, 2023.

The Company is required to make a mandatory prepayment of the Pharmakon Term Loans (i) upon the occurrence of a change of control and (ii) prior to any repayment of any convertible debt that the Company may issue in the future, subject to certain exceptions. The Company may make voluntary prepayments in whole or in part, in minimum $25,000 increments. Prepayments are subject to a prepayment premium equal to, (i) with respect to any prepayment made prior to the second anniversary of the applicable Pharmakon Term Loan borrowing date, the sum of (1) 3.00% of the principal amount of the Pharmakon Term Loan being prepaid plus (2) the aggregate amount of all interest that would have accrued on the principal amount of the Pharmakon Term Loan being prepaid from the date of prepayment through and including the second anniversary of the date of the borrowing of such Pharmakon Term Loan; (ii) with respect to any prepayment made on or after the second anniversary and prior to the third anniversary of the applicable Pharmakon Term Loan borrowing date, 3.00% of the principal amount of the Pharmakon Term Loan being prepaid; (iii) with respect to any prepayment made on or after the third anniversary and prior to the fourth anniversary of the applicable Pharmakon Term Loan, 2.00% of the principal amount of the Pharmakon Term Loan being prepaid; and (iv) with respect to any prepayment made on or after the fourth anniversary of the applicable Pharmakon Term Loan borrowing date and before the Maturity Date, 1.00% of the principal amount of the Pharmakon Term Loan being prepaid. In addition, upon the drawing of any Subsequent Tranche Loan, certain funding fees are required to be paid.

The Pharmakon Loan Agreement also contains representations and warranties and affirmative and negative covenants customary for financings of this type, as well as customary events of default. Certain of the customary negative covenants limit the ability of the Company and certain of its subsidiaries to, among other things, dispose of assets, engage in mergers, acquisitions, and similar transactions, incur additional indebtedness, grant liens, make investments, pay dividends or make distributions or certain other restricted payments in respect of equity, prepay other indebtedness, enter into restrictive agreements, undertake fundamental changes or amend certain material contracts, among other customary covenants, in each case subject to certain exceptions.

A failure to comply with the covenants in the Pharmakon Loan Agreement, or an occurrence of any other event of default, could permit the lenders under the Pharmakon Loan Agreement to declare the borrowings thereunder, together with accrued interest and fees, and any applicable prepayment premium, to be immediately due and payable.

The Company's obligations under the Pharmakon Loan Agreement are secured by a security interest in, subject to certain exceptions, substantially all of the Company's assets.

As of June 30, 2023, the Company had total borrowings of $300,000 under the Pharmakon Loan Agreement. Total quarterly interest expense on the Pharmakon Tranche A Loan for the three months ended June 30, 2023 totaled $7,648. As allowable under the Pharmakon Loan Agreement, the Company has designated and accounted for 50% of the quarterly interest payment for the three months ended June 30, 2023 as a Pharmakon PIK Interest Payment and the amount of $3,824 has been added to the outstanding principal balance of the borrowing. The remaining 50% of the quarterly interest payment

of $3,824 was paid as of June 30, 2023. As of June 30, 2023, borrowings, including the Pharmakon PIK Interest Payments, totaled $303,824. The fair value of the debt approximates its carrying value based on prevailing interest rates as of the balance sheet date and is considered as Level 2 in the fair value hierarchy.

Incurred debt fees and issuance costs associated with the Tranche A Loan under the Pharmakon Loan Agreement totaled $10,885 and have been deferred and are being amortized as interest expense on an effective interest rate method over the remaining term of the Pharmakon Tranche A Loan. Deferred financing amortization of $237 was recognized for the three and six months ended June 30, 2023.

Athyrium Credit Agreement

On December 7, 2020, the Company entered into a $200,000 Credit Agreement (the "Athyrium Credit Agreement") with Athyrium Opportunities III Co-Invest 1 LP ("Athyrium"), as lender and as administrative agent for the lenders. Certain of the Company's direct and indirect subsidiaries were guarantors to the Athyrium Credit Agreement. The Athyrium Credit Agreement provided for an initial term loan in the principal amount of $125,000 (the "Term A Loan"), which was received by the Company on December 7, 2020 and is recorded in "Secured term loan" on the Company's balance sheet. The Company used a portion of the proceeds from the Term A Loan to repay $43,298 of outstanding indebtedness, including accrued interest, under its prior credit facility with MidCap Financial Trust.

The Athyrium Credit Agreement also provided for two additional term loans, at the Company's option, in the respective principal amounts of $25,000 (the "Term B Loan") and $50,000 (the "Term C Loan" and, collectively with the Term A Loan and the Term B Loan, the "Athyrium Term Loans"). Having achieved all required revenue-based milestones, the Company exercised its option to draw upon the additional funding available under the Athyrium Credit Agreement, borrowing the principal amounts of $25,000 under the Term B Loan and $50,000 under the Term C Loan. Both the Term B Loan and the Term C Loan were funded on July 29, 2022 in the aggregate principal amount of $75,000. The Term B Loan and the Term C Loan were subject to all the provisions under the Athyrium Credit Agreement.

On November 19, 2021, the Company entered into an amendment to the Athyrium Credit Agreement to, among other things, (i) permit the Company to enter into the 2021 RPI Royalty Purchase Agreement, the OMERS Royalty Purchase Agreement, and the other definitive documentation related thereto and to perform its obligations thereunder; (ii) require the Company to pay to Athyrium, for the account of the lenders, a make-whole premium plus certain fees set forth in the Athyrium Credit Agreement in the event that the Company prepaid or repaid, or was required to prepay or repay, voluntarily or pursuant to mandatory prepayment obligations under the Athyrium Credit Agreement (e.g., with the proceeds of certain asset sales, certain ORLADEYO out-licensing or royalty monetization transactions (excluding the Royalty Sales), extraordinary receipts, debt issuances, or upon a change of control of the Company and specified other events, subject to certain exceptions), all of the then-outstanding Athyrium Term Loans, in each case, subject to certain exceptions set forth in the Athyrium Credit Agreement.

The Athyrium Credit Agreement provided for quarterly interest-only payments until the maturity date, with the unpaid principal amount of the outstanding Athyrium Term Loans due and payable on the maturity date. For each of the first eight full fiscal quarters following December 7, 2020, the Company had the option to make the applicable interest payment in-kind (an "Athyrium PIK Interest Payment") by capitalizing the entire amount of interest accrued during the applicable interest period with the unpaid original principal amount outstanding on the last day of such period. The Athyrium Term Loans accrued interest at a rate equal to the three-month LIBOR rate, which was no less than 1.75% and no more than 3.50% ("LIBOR"), plus 8.25%, or for each interest period in which an Athyrium PIK Interest Payment was made, LIBOR plus 10.25%. The quarter ended December 31, 2022 was the last period eligible for the Athyrium PIK Interest Payment designation.

The Athyrium Term Loans accrued interest at an effective interest rate of 11.75% during the period in which the debt was outstanding for the three months ended June 30, 2023 compared to 12.17% for the three months ended June 30, 2022.

Subject to certain exceptions, the Athyrium Credit Agreement would have required the Company to make mandatory prepayments of the Athyrium Term Loans with the proceeds of certain asset sales, certain ORLADEYO out-licensing or royalty monetization transactions (excluding the Royalty Sales), extraordinary receipts, debt issuances, or upon a change of control of the Company and specified other events. The Company could have made voluntary prepayments in whole or in part. Prepayments were subject to a premium equal to, (i) with respect to any voluntary prepayment and certain mandatory prepayments paid on or prior to the second anniversary of the applicable Athyrium Term Loan borrowing date, the amount, if any, by which (a) the sum of (1) 102.00% of the principal amount of the Athyrium Term Loan being prepaid plus (2) the present value of all interest that would have accrued on the principal amount of the Athyrium Term Loan being

prepaid through and including the second anniversary of the date of the borrowing of such Athyrium Term Loan, plus 0.50%, exceeds (b) the principal amount of the Athyrium Term Loan being prepaid; (ii) with respect to any prepayment made between the second and third anniversaries of the applicable Athyrium Term Loan borrowing date, 2.00% of the principal amount of the Athyrium Term Loan being prepaid; (iii) with respect to any prepayment made between the third and fourth anniversaries of the applicable Athyrium Term Loan borrowing date, 1.00% of the principal amount of the Athyrium Term Loan being prepaid; and (iv) with respect to any prepayment made after the fourth anniversary of the applicable Athyrium Term Loan borrowing date, 0.00% of the principal amount of the Athyrium Term Loan being prepaid. Upon the prepayment or repayment, including at maturity, of all or any of the Athyrium Term Loans, the Company was obligated to pay an exit fee in an amount equal to 2.00% of the principal amount of the Athyrium Term Loans prepaid or repaid. In addition, each Athyrium Term Loan was subject to a 1.00% commitment fee at its respective borrowing date.

Quarterly interest payments under the Athyrium Credit Agreement for the six months ended June 30, 2023 and 2022 totaled $8,476 and $8,774, respectively. From the Athyrium Term Loan inception through December 31, 2022, the quarterly interest payments were designated and accounted for as Athyrium PIK Interest Payments and added to the outstanding principal balance of the borrowing. The quarter ended December 31, 2022 was the last period eligible for the Athyrium PIK Interest Payment designation. Deferred financing amortization of $1,069 and $(339), was recognized for the six months ended June 30, 2023 and 2022, respectively.

On April 17, 2023, the outstanding principal of the Athyrium Term Loans, including the Athyrium PIK Interest Payments of $240,452 along with interest accrued of $1,335 for the first 17 days of the quarterly interest period ended June 30, 2023, was repaid with the funding received through the Pharmakon Loan Agreement.

Upon repayment of the Athyrium Term Loans, the Company incurred certain unaccrued prepayment and final payment fees to Athyrium of $17,261. Additionally, unamortized deferred financing costs of $11,758 associated with the Athyrium Term Loans were written-off at the time of repayment. Collectively, the prepayment and final payment fees and unamortized deferred financing costs totaled $29,019 and are reflected as a one-time loss on extinguishment of debt on the Consolidated Statements of Comprehensive Loss for the three and six months ended June 30, 2023.

Note 8 — Lease Obligations

The Company leases certain assets, predominantly under operating leases, which consist of real estate leases, laboratory equipment leases and office equipment leases as of June 30, 2023. Renewal options for the Company's leases range from 1 to 5 years in length and begin from 2024 through 2027.

Aggregate lease expense was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Aggregate lease expense	$ 764	$ 626	$ 1,491	$ 1,220

Other supplemental information related to leases was as follows:

	As of June 30, 2023	As of December 31, 2022
Weighted average remaining lease term	7.2 years	8.1 years
Weighted average discount rate	10.3%	11.0%

The following table summarizes the presentation in the Consolidated Balance Sheets of the Company's leases:

	Balance Sheet Location	As of June 30, 2023	As of December 31, 2022
Assets:			
Lease assets, net	*Other Assets*	$ 6,946	$ 6,806
Liabilities:			
Current lease liabilities	*Lease financing obligation – current liabilities*	$ 2,530	$ 2,369
Non-current lease liabilities	*Lease financing obligation – long-term liabilities*	5,803	5,804
Total lease liabilities		$ 8,333	$ 8,173

Lease assets are recorded net of accumulated amortization of $5,451 and $4,349 as of June 30, 2023 and December 31, 2022, respectively.

Cash paid for amounts included in the measurement of lease liabilities was $746 and $1,451 for the three and six months ended June 30, 2023, respectively. This compares to cash paid for amounts included in the measurement of lease liabilities of $607 and $1,181 for the three and six months ended June 30, 2022, respectively.

Maturities of lease liabilities as of June 30, 2023, are as follows (in thousands):

2023 (remaining)	$ 1,517
2024	2,345
2025	1,853
2026	892
2027	621
Thereafter	6,155
Total lease payments	13,383
Less imputed interest	(5,050)
Total	$ 8,333

Note 9 — Stockholders' Equity

Sales of Common Stock

On March 1, 2021, the Company filed an automatic shelf registration statement on Form S-3 with the SEC. This shelf registration statement became effective automatically upon filing and allows the Company to sell an indeterminate number of securities, including common stock, preferred stock, depositary shares, purchase contracts, warrants, debt securities, and units, from time to time at prices and on terms to be determined at the time of sale.

On November 19, 2021, concurrent with the Company entering into the 2021 RPI Royalty Purchase Agreement, the Company and RPI entered into the Common Stock Purchase Agreement, pursuant to which the Company issued 3,846 shares of the Company's common stock to RPI for an aggregate purchase price of $50,000, at a price of $13.00 per share, calculated based on the 20-day volume weighted average price. The $13.00 per share price represented a premium of $1.11 over the closing price of $11.89 of the Company's common stock on November 17, 2021, the last trading day prior to the execution of the Common Stock Purchase Agreement. The premium of $4,269 paid by RPI on the purchase of the Company's common stock has been deferred and is being amortized as a component of interest expense of the 2021 RPI royalty financing obligation.

Note 10 — Stock-Based Compensation

As of June 30, 2023, the Company had three stock-based employee compensation plans: the Amended and Restated Stock Incentive Plan ("Incentive Plan"), the Amended and Restated Inducement Equity Incentive Plan ("Inducement Plan") and the Amended and Restated Employee Stock Purchase Plan ("ESPP"). The Incentive Plan was most recently amended and restated on April 24, 2023 and approved by the Company's stockholders on June 13, 2023. The Inducement Plan was most recently amended and restated by the Company's Board of Directors on August 26, 2022. The ESPP was most recently amended and restated by the Company's Board of Directors on July 7, 2023.

The Company recorded the following stock-based compensation expense (in thousands):

	Six Months Ended June 30,	
	2023	2022
Incentive Plan	$ 21,297	$ 15,867
Inducement Plan	4,720	2,965
ESPP	831	636
Stock-based compensation expense	$ 26,848	$ 19,468

There was approximately $126,812 of total unrecognized compensation expense related to non-vested stock option and restricted stock unit awards granted by the Company as of June 30, 2023. As of June 30, 2023, the Company expected to recognize that expense as follows: $25,967 during the remainder of 2023, $47,207 in 2024, $34,593 in 2025, $18,582 in 2026 and $463 in 2027. In addition, the Company has outstanding performance-based stock options and restricted stock unit awards for which no compensation expense is recognized until "performance" has occurred and the award vests.

Stock Incentive Plan

The Company grants stock option awards, restricted stock and restricted stock units to its employees, directors, and consultants under the Incentive Plan. Under the Incentive Plan, stock option awards are granted with an exercise price equal to the market price of the Company's common stock at the date of grant. Stock option awards and restricted stock units granted to employees generally vest 25% each year until fully vested after four years.

In December 2014, the Company issued 1,250 performance-based stock options. These awards vest upon successful completion of specific development milestones. As of June 30, 2023, 85% of these grants have vested.

In January 2022, the Company issued 221 performance-based restricted stock unit awards. 21 of the awards met the performance objectives in 2022 and became eligible for vesting at 50% on the first anniversary of the grant date and 25% on each of the second and third anniversaries of the grant date, until fully vested after three years. The remaining awards were cancelled.

Stock option awards and restricted stock unit awards granted to non-employee directors of the Company generally vest over one year. Stock option awards granted to new non-employee directors when they first join the Company's Board of Directors generally vest, subject to the terms of the Incentive Plan, in 36 equal monthly installments over a three-year period measured from the grant date. All stock option awards have contractual terms of 10 years. Restricted stock unit awards granted to new non-employee directors when they first join the Company's Board of Directors generally vest, subject to the terms of the Incentive Plan, in three equal annual installments beginning on the first anniversary of the grant date. The vesting and exercise provisions of all awards granted under the Incentive Plan are subject to acceleration in the event of certain stockholder-approved transactions, or upon the occurrence of a change in control as defined in the Incentive Plan.

Related activity under the Incentive Plan is as follows:

	Awards Available	Options Outstanding	Weighted Average Exercise Price
Balance December 31, 2022	4,206	31,179	$ 8.56
Plan amendment	7,000	—	—
Restricted stock unit awards granted	(314)	—	—
Restricted stock unit awards cancelled	417	—	—
Stock option awards granted	(618)	618	9.01
Stock option awards exercised	—	(775)	5.25
Stock option awards cancelled	810	(810)	10.12
Balance June 30, 2023	11,501	30,212	$ 8.61

For stock option awards granted under the Incentive Plan during the first six months of 2023 and 2022, the fair value was estimated on the date of grant using a Black-Scholes option pricing model and the assumptions noted in the table following the next subsection. The weighted average grant date fair value of these awards granted during the first six months of 2023 and 2022 was $6.40 and $7.78, respectively. The fair value of the stock option awards is amortized to expense over the vesting periods using a straight-line expense attribution method. For restricted stock unit awards granted under the Incentive Plan, the fair value of the awards was determined based on the market value of the Company's shares on the grant date. The weighted average grant date fair value of these awards granted during the first six months of 2023 and 2022 was $9.18 and $13.25, respectively. The fair value of the restricted stock unit awards is amortized to expense over the vesting periods using a straight-line expense attribution method.

Inducement Equity Incentive Plan

The Company has the ability to grant stock option and restricted stock unit awards to newly-hired employees as inducements material to each employee entering employment with the Company. Awards granted to newly hired employees generally vest 25% each year until fully vested after four years and are subject to the terms and conditions of the Inducement Plan. Each stock option has a term of 10 years. The vesting and exercise provisions of all awards granted under the Inducement Plan are subject to acceleration in the event of certain stockholder-approved transactions, or upon the occurrence of a change in control as defined in the Inducement Plan.

Related activity under the Inducement Plan is as follows:

	Awards Available	Options Outstanding	Weighted Average Exercise Price
Balance December 31, 2022	947	5,341	$ 8.80
Restricted stock unit awards granted	(325)	—	—
Restricted stock unit awards cancelled	61	—	—
Stock option awards granted	(801)	801	9.00
Stock option awards exercised	—	(330)	3.65
Stock option awards cancelled	460	(460)	9.97
Balance June 30, 2023	342	5,352	$ 9.04

For stock option awards granted under the Inducement Plan during the first six months of 2023 and 2022, the fair value was estimated on the date of grant using a Black-Scholes option pricing model and the assumptions noted in the table below. The weighted average grant date fair value of these awards granted during the first six months of 2023 and 2022 was $6.38 and $10.28, respectively. The fair value of the stock option awards is amortized to expense over the vesting periods using a straight-line expense attribution method. For restricted stock unit awards granted under the Inducement Plan, the fair value of the awards was determined based on the market value of the Company's shares on the grant date.

The weighted average grant date fair value of these awards granted during the first six months of 2023 and 2022 was $8.84 and $13.88, respectively. The fair value of the restricted stock unit awards is amortized to expense over the vesting periods using a straight-line expense attribution method.

The following table summarizes the key assumptions used by the Company to value the stock option awards granted under all plans during the first six months of 2023 and 2022, respectively. The expected life is based on the average of the assumption that all outstanding stock option awards will be exercised at full vesting and the assumption that all outstanding stock option awards will be exercised at the midpoint of the current date (if already vested) or at full vesting (if not yet vested) and the full contractual term. The expected volatility represents the historical volatility on the Company's publicly-traded common stock. The Company has assumed no expected dividend yield, as dividends have never been paid to stock or option holders and will not be paid for the foreseeable future. The weighted average risk-free interest rate is the implied yield currently available on zero-coupon government issues with a remaining term equal to the expected term.

Weighted Average Assumptions for Stock Option Awards Granted to Employees and Directors under the Incentive and Inducement Plans

	2023	2022
Expected Life in Years	5.5	5.5
Expected Volatility	84.3 %	84.1 %
Expected Dividend Yield	0.0 %	0.0 %
Risk-Free Interest Rate	3.8 %	2.5 %

Employee Stock Purchase Plan

The Company has reserved a total of 7,975 shares of common stock to be purchased under the ESPP, of which 5,617 shares remain available for purchase as of June 30, 2023. Eligible employees may authorize up to 15% of their salary to purchase common stock at the lower of 85% of the beginning or 85% of the ending price during six-month purchase intervals. No more than three thousand shares may be purchased by any one employee at the six-month purchase dates, and no employee may purchase stock having a fair market value at the commencement date of $25 or more in any one calendar year. During the six months ended June 30, 2023, and 2022, the Company issued 176 and 115 shares under the ESPP, respectively. Compensation expense for shares purchased under the ESPP related to the purchase discount and the "look-back" option were determined using a Black-Scholes option pricing model.

Note 11 — Collaborative and Other Relationships

ORLADEYO

Torii Pharmaceutical Co., Ltd.

On November 5, 2019, the Company entered into a Commercialization and License Agreement with Torii (the "Torii Agreement"), granting Torii the exclusive right to commercialize ORLADEYO for the prevention of HAE attacks in Japan.

Under the Torii Agreement, the Company received an upfront, non-refundable payment of $22,000. The Japanese National Health Insurance System's ("NHI") approval of the addition of ORLADEYO to the NHI drug price list in April 2021 triggered a $15,000 milestone payment from Torii to the Company, which was received in May 2021.

In addition, under the Torii Agreement, the Company is entitled to receive tiered royalty payments, ranging from 20% to 40% of annual net sales of ORLADEYO in Japan during each calendar year. Torii's royalty payment obligations are subject to customary reductions in certain circumstances, but may not be reduced by more than 50% of the amount that otherwise would have been payable to the Company in the applicable calendar quarter. Torii's royalty payment obligations commenced upon the first commercial sale of ORLADEYO in Japan and expire upon the later of (i) the tenth anniversary of the date of first commercial sale of ORLADEYO in Japan, (ii) the expiration of the Company's patents covering ORLADEYO, and (iii) the expiration of regulatory exclusivity for ORLADEYO in Japan. The Company is responsible for supplying Torii with its required amounts of ORLADEYO. The activities of the parties pursuant to the Torii Agreement are overseen by a joint steering committee, composed of an equal number of representatives from each party to coordinate the development and commercialization of ORLADEYO in Japan. Torii launched ORLADEYO in Japan on April 23, 2021.

The Company identified performance obligations related to (i) the license to develop and commercialize ORLADEYO, (ii) regulatory approval support and (iii) reimbursement pricing approval support. These were each determined to be distinct from the other performance obligations. The Company allocated the $22,000 upfront consideration to the identified performance obligations using estimation approaches to determine the standalone selling prices under ASC Topic 606. Specifically, in determining the value related to the license, a valuation approach utilizing risk adjusted discounted cash flow projections was used, and an expected cost plus margin approach was utilized for the other performance obligations.

Peramivir Injection (RAPIVAB, RAPIACTA, PERAMIFLU)

Shionogi & Co., Ltd.

In February 2007, the Company entered into an exclusive license agreement with Shionogi to develop and commercialize peramivir in Japan for the treatment of seasonal and potentially life-threatening human influenza. Under the terms of the agreement, Shionogi obtained rights to injectable formulations of peramivir in Japan. The Company developed peramivir under a license from the University of Alabama at Birmingham ("UAB") and will owe sublicense payments to UAB on any future milestone payments and/or royalties received by the Company from Shionogi. In October 2008, the Company and Shionogi amended the license agreement to expand the territory covered by the agreement to include Taiwan. Shionogi has commercially launched peramivir under the commercial name RAPIACTA in Japan and Taiwan.

Green Cross Corporation

In June 2006, the Company entered into an agreement with Green Cross to develop and commercialize peramivir in Korea. Under the terms of the agreement, Green Cross is responsible for all development, regulatory, and commercialization costs in Korea and the Company is entitled to share in profits resulting from the sale of peramivir in Korea, including the sale of peramivir to the Korean government for stockpiling purposes. Furthermore, Green Cross will pay the Company a premium over its cost to supply peramivir for development and any future marketing of peramivir products in Korea.

Government Collaborations

The Company has previously entered into contracts with the U.S. Government, including the procurement contract with HHS for up to 50,000 doses of RAPIVAB over a five-year period to supply the Strategic National Stockpile for use in a public health emergency and contracts with NIAID/HHS and BARDA/HHS for the development of galidesivir. As of June 30, 2023, the Company has delivered a total of 49,980 RAPIVAB doses of the 50,000 RAPIVAB doses available under the procurement contract, effectively completing the contract with HHS, and all of the Company's government funding for galidesivir has expired.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following Management's Discussion and Analysis ("MD&A") is intended to help the reader understand our results of operations and financial condition. MD&A is provided as a supplement to, and should be read in conjunction with, our unaudited consolidated financial statements and the accompanying notes to the financial statements and other disclosures included in this report (including the "Cautionary Note Regarding Forward-Looking Statements" at the beginning of this report and the "Risk Factors" section in Part II, Item 1A of this report).

Overview

We are a commercial-stage biotechnology company that discovers and commercializes novel, oral, small-molecule medicines. We focus on oral treatments for rare diseases in which significant unmet medical needs exist and an enzyme plays the key role in the biological pathway of the disease. We integrate the disciplines of biology, crystallography, medicinal chemistry, and computer modeling to discover and develop small-molecule pharmaceuticals through the process known as structure-guided drug design. In addition to these discovery and development efforts, our business strategy includes the efficient commercialization of these drugs in the United States and certain other regions upon regulatory approval. By focusing on rare disease markets, we believe that we can more effectively control the costs of, and our strategic allocation of financial resources toward, post-approval commercialization.

Products and Product Candidates

ORLADEYO® (berotralstat). ORLADEYO is an oral, once-daily therapy discovered and developed by us for the prevention of hereditary angioedema ("HAE") attacks. ORLADEYO is approved in the United States and multiple global markets for the prevention of HAE attacks in adults and pediatric patients 12 years and older.

We have built out our U.S. commercial infrastructure to support the launch and continued commercialization of ORLADEYO in the United States and are continuing to build our commercial infrastructure to support launches in other markets. Based on proprietary analyses of HAE prevalence and market research studies with HAE patients, physicians, and payors in the United States and Europe, and more than two and a half years of commercialization experience with ORLADEYO, we anticipate the global commercial market for ORLADEYO has the potential to reach a global peak of $1 billion in annual net ORLADEYO revenues. We expect at least 70 to 80 percent of our revenue at peak to come from the United States. These expectations are subject to numerous risks and uncertainties that may cause our actual results, performance, or achievements to be materially different. There can be no assurance that our commercialization methods and strategies will succeed, or that the market for ORLADEYO will develop in line with our current expectations. See "Risk Factors—Risks Relating to Our Business—Risks Relating to Drug Development and Commercialization—There can be no assurance that our or our partners' commercialization efforts, methods, and strategies for our products or technologies will succeed, and our future revenue generation is uncertain" in Part II, Item 1A of this report for further discussion of these risks.

Revenue from sales of ORLADEYO for the three and six months ended June 30, 2023 is discussed under "Results of Operations" in this MD&A. Revenue from sales of ORLADEYO in future periods is subject to uncertainties and will depend on several factors, including the success of our and our partners' commercialization efforts in the United States and elsewhere, the number of new patients switching to ORLADEYO, patient retention and demand, the number of physicians prescribing ORLADEYO, the rate of monthly prescriptions, reimbursement from third-party and government payors, the number of patients receiving free product, the conversion of patients from our clinical trials and early access programs to commercial customers, our pricing strategy, and market trends. We are continuing to monitor and analyze this data as we continue to commercialize ORLADEYO. The percentage of U.S. ORLADEYO patients receiving paid drug improved in the three months ended June 30, 2023, as we made progress converting commercially-insured patients who had been receiving long-term free product and as patients who received temporary free product during the first quarter prescription re-authorization process returned to reimbursed product in the three months ended June 30, 2023.

Complement Program. The goal of our overall complement program is to advance several first-in-class and/or best-in-class compounds across multiple pathways in the complement system to treat many complement-mediated diseases. These compounds include BCX10013, a potential once-daily oral medicine, which targets the alternative pathway of complement. In addition, we are pursuing oral medicines directed at other targets across the classical, lectin, and terminal pathways of the complement system, including C2, a critical upstream serine protease enzyme for activation of the classical and lectin pathways. We have developed potent, selective molecules targeting C2, which are currently in lead optimization.

RAPIVAB®/RAPIACTA®/PERAMIFLU® (peramivir injection). RAPIVAB (peramivir injection) is approved in the United States for the treatment of acute uncomplicated influenza for patients six months and older. Peramivir injection is

also approved in Canada (RAPIVAB), Australia (RAPIVAB), Japan (RAPIACTA), Taiwan (RAPIACTA), and Korea (PERAMIFLU).

Revenues and Expenses

Our revenues are difficult to predict and depend on several factors, including those discussed in the "Risk Factors" section in Part II, Item 1A of this report. For example, our revenues depend, in part, on regulatory approval decisions for our products and product candidates, the effectiveness of our and our collaborative partners' commercialization efforts, market acceptance of our products, particularly ORLADEYO, and the resources dedicated to our products and product candidates by us and our collaborative partners, as well as entering into or modifying licensing agreements for our product candidates. Furthermore, revenues related to our collaborative development activities are dependent upon the progress toward, and the achievement of, developmental milestones by us or our collaborative partners.

Our operating expenses are also difficult to predict and depend on several factors, including research and development expenses, drug manufacturing, clinical research activities, the ongoing requirements of our development programs, the costs of commercialization, the availability of capital and direction from regulatory agencies, which are difficult to predict, and the factors discussed in the "Risk Factors" section in Part II, Item 1A of this report. Management may be able to control the timing and level of research and development and selling, general and administrative expenses, but many of these expenditures will occur irrespective of our actions due to contractually committed activities and/or payments.

As a result of these factors, we believe that period-to-period comparisons are not necessarily meaningful, and you should not rely on them as an indication of future performance. Due to the foregoing factors, it is possible that our operating results will be below the expectations of market analysts and investors. In such event, the prevailing market price of our common stock could be materially adversely affected.

Critical Accounting Policies and Estimates

The accompanying discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements and the related disclosures, which have been prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP"). The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosure of contingent assets and liabilities. We evaluate our estimates, judgments and the policies underlying these estimates on a periodic basis, as situations change, and regularly discuss financial events, policies, and issues with members of our audit committee and our independent registered public accounting firm. In particular, we routinely evaluate our estimates and policies regarding revenue recognition, administration, inventory and manufacturing, taxes, stock-based compensation, research and development, consulting and other expenses and any associated liabilities. Our estimates are based on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. The results of our estimates form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. See "Critical Accounting Estimates" at the end of this MD&A for a description of accounting policies that we believe are the most critical to aid you in fully understanding and evaluating our reported financial results and that affect the more significant judgments and estimates that we use in the preparation of our financial statements.

Recent Developments

ORLADEYO® (berotralstat)

On April 27, 2023, we announced that new data from the APeX-S clinical trial, which evaluated ORLADEYO for the prophylactic treatment of HAE, showed sustained reduction in disease burden for patients across multiple subgroups through 96 weeks of treatment.

On May 22, 2023, we announced that the Public Health Institute of Chile has granted marketing authorization for ORLADEYO for the prophylaxis of HAE in patients 12 years of age or older. We have an exclusive collaboration with Pint Pharma GmbH ("Pint") to register and promote ORLADEYO in the pan-Latin America region. Under the terms of the agreement, Pint is responsible for obtaining and maintaining all marketing authorizations and for commercializing ORLADEYO in the region.

On July 19, 2023, we announced that we have entered into a collaboration with Er-Kim Pharmaceuticals to commercialize ORLADEYO in Turkey.

Complement-Mediated Diseases

BCX10013

On August 3, 2023, we announced that we have begun opening clinical trial sites for a dose-ranging trial in patients with paroxysmal nocturnal hemoglobinuria (PNH) and expect to begin patient enrollment (in countries without other approved therapies) by the end of the year. The trial is designed to identify a safe, effective, once-daily dose that we can advance into a pivotal program in renal complement-mediated diseases. We also plan to complete an additional cohort of our multiple ascending dose trial (MAD) of BCX10013, at a higher dose (160 mg QD), in healthy volunteers to provide further information to the pharmacokinetic model.

Refinancing Transaction

On April 17, 2023, we entered into a $450.0 million Loan Agreement (the "Pharmakon Loan Agreement") with BioPharma Credit Investments V (Master) LP and BPCR Limited Partnership, as lenders, and BioPharma Credit PLC, as collateral agent for the lenders. Certain of our wholly-owned subsidiaries are guarantors to the Pharmakon Loan Agreement. The Pharmakon Loan Agreement provides for an initial term loan in the principal amount of $300 million (the "Tranche A Loan"), which was funded on April 17, 2023 (the "Tranche A Closing Date"). We utilized the proceeds from the Tranche A Loan to repay the approximate $241.8 million of outstanding indebtedness under our then-existing credit facility with Athyrium Opportunities III Co-Invest 1 LP (the "Athyrium Credit Agreement") and to pay transaction costs and fees, and we intend to use the remaining net proceeds of approximately $26.1 million for other general corporate purposes. The Pharmakon Loan Agreement also provides for three additional term loan tranches in principal amounts of $50.0 million each, which we may request, at our option, on or prior to September 30, 2024. The maturity date of the Pharmakon Loan Agreement is April 17, 2028, the fifth anniversary of the Tranche A Closing Date. See "Note 7—Debt—Pharmakon Loan Agreement" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report for additional information about our obligations under the Pharmakon Loan Agreement.

Collectively, the prepayment and final payment fees and unamortized deferred financing costs associated with repayment of the Athyrium Credit Agreement totaled $29.0 million and are reflected as a one-time loss on extinguishment of debt on the Consolidated Statements of Comprehensive Loss for the three and six months ended June 30, 2023. See "Note 7—Debt—Athyrium Credit Agreement" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report for additional information about this extinguishment of debt.

Results of Operations (three months ended June 30, 2023 compared to the three months ended June 30, 2022)

For the three months ended June 30, 2023, total revenues were $82.5 million as compared to $65.5 million for the three months ended June 30, 2022. The increase was primarily due to ORLADEYO net revenue, including royalties, of $81.0 million, an increase of $15.8 million.

Cost of product sales for the three months ended June 30, 2023 and 2022 was $0.9 million and $0.2 million, respectively. The increase in cost of product sales was due to an increase in ORLADEYO sales as compared to the prior year period as well as the utilization of validation materials and product in the prior year period, the cost of which was expensed prior to product launch.

Research and development ("R&D") expenses decreased to $51.2 million for the three months ended June 30, 2023 from $62.0 million for the three months ended June 30, 2022, primarily due to reduced R&D investment following the discontinuation of the BCX9930 and BCX9250 programs announced in December and November 2022, respectively. These reductions were partially offset by increased spending on berotralstat development programs and other research, preclinical and development costs.

The following table summarizes our R&D expenses for the periods indicated (amounts are in thousands). Certain prior period amounts have been reclassified for consistency with the current year presentation. These reclassifications had no effect on the total R&D expenses.

	Three Months Ended June 30,	
	2023	2022
R&D expenses by program:		
Factor D program	$ 25,634	$ 43,462
Berotralstat	9,672	6,955
FOP	99	5,721
Peramivir	72	181
Galidesivir	104	427
Other research, preclinical and development costs	15,666	5,244
Total R&D expenses	**$ 51,247**	**$ 61,990**

Selling, general and administrative ("SG&A") expenses for the three months ended June 30, 2023 were $51.0 million compared to $38.0 million for the three months ended June 30, 2022. The increase was primarily due to increased investment to expand and enhance the U.S. commercial team and expanded international operations.

Interest expense for the three months ended June 30, 2023 was $28.9 million compared to $24.0 million for the three months ended June 30, 2022. The increase in interest expense was primarily associated with the interest accrued on the larger Pharmakon Tranche A Loan of $300.0 million. On April 17, 2023, we entered into the Pharmakon Loan Agreement. The Pharmakon Loan Agreement provides for an initial term loan, the Tranche A Loan, in the principal amount of $300.0 million, which was funded on April 17, 2023 and was primarily used to repay the outstanding Athyrium Credit Agreement principal balance, outstanding interest accrued on the Athyrium term loans and associated prepayment and final payment fees totaling $263.0 million.

Interest expense for the three months ended June 30, 2023 included $19.5 million of non-cash interest expense due to the amortization of interest associated with the royalty financing obligations, $7.9 million of interest expense, including the amortization of the deferred financing associated with the borrowings under the Pharmakon Loan Agreement, and $1.5 million of interest expense, including the amortization of the deferred financing associated with the borrowings under the Athyrium Credit Agreement. Interest expense for the three months ended June 30, 2022 included $19.7 million of non-cash interest expense due to the amortization of interest associated with the royalty financing obligations and $4.3 million of interest expense, net of deferred financing amortization, associated with the Term A Loan under the Athyrium Credit Agreement.

For the three months ended June 30, 2023, other expense of $25.0 million was comprised primarily of a loss on extinguishment of debt of $29.0 million on the repayment of the term loans under the Athyrium Credit Agreement, partially offset by interest income of $3.8 million and net foreign currency gains of $0.3 million. Other income of $0.7 million for the three months ended June 30, 2022 was comprised of interest income of $0.6 million and net foreign currency gains of $0.1 million.

Results of Operations (six months ended June 30, 2023 compared to the six months ended June 30, 2022)

For the six months ended June 30, 2023, total revenues were $151.3 million as compared to $115.5 million for the six months ended June 30, 2022. The increase was primarily due to ORLADEYO net revenue, including royalties, of $149.4 million, an increase of $34.5 million.

Cost of product sales for the six months ended June 30, 2023 and 2022 was $1.8 million and $0.5 million, respectively. The increase in cost of product sales was due to an increase in ORLADEYO sales as compared to the prior year period as well as the utilization of validation materials and product in the prior year period, the cost of which was expensed prior to product launch. Additionally, for the six months ended June 30, 2023, an inventory valuation reserve of $0.2 million was recorded for inventory, primarily ORLADEYO, that was at risk of expiration prior to usage.

R&D expenses decreased to $99.6 million for the six months ended June 30, 2023 from $127.4 million for the six months ended June 30, 2022, primarily due to reduced R&D investment following the discontinuation of the BCX9930 and

BCX9250 programs announced in December and November 2022, respectively. These reductions were partially offset by increased spending on berotralstat development programs and other research, preclinical and development costs.

The following table summarizes our R&D expenses for the periods indicated (amounts are in thousands). Certain prior period amounts have been reclassified for consistency with the current year presentation. These reclassifications had no effect on the total R&D expenses.

	Six Months Ended June 30,	
	2023	2022
R&D expenses by program:		
Factor D program	$ 51,819	$ 91,369
Berotralstat	19,173	15,172
FOP	803	8,596
Galidesivir	479	589
Peramivir	265	1,013
Other research, preclinical and development costs	27,096	10,611
Total R&D expenses	**$ 99,635**	**$ 127,350**

SG&A expenses for the six months ended June 30, 2023 were $98.9 million compared to $72.3 million for the six months ended June 30, 2022. The increase was primarily due to increased investment to expand and enhance the U.S. commercial team and expanded international operations.

Interest expense for the six months ended June 30, 2023 was $56.3 million compared to $47.9 million for the six months ended June 30, 2022. The increase in interest expense was primarily associated with the interest accrued on the larger Pharmakon Tranche A Loan of $300.0 million. Additionally, the increase in interest expense was due to the additional aggregate borrowing of $75.0 million of the Term B Loan and Term C Loan under the Athyrium Credit Agreement, which were funded on July 29, 2022.

Interest expense for the six months ended June 30, 2023 included $38.8 million of non-cash interest expense due to the amortization of interest associated with the royalty financing obligations, $7.9 million of interest expense, including the amortization of the deferred financing associated with the borrowings under the Pharmakon Loan Agreement and $9.5 million of interest expense, net of deferred financing amortization, associated with the borrowings under the Athyrium Credit Agreement. Interest expense for the six months ended June 30, 2022 included $39.4 million of non-cash interest expense due to the amortization of interest associated with the royalty financing obligations and $8.4 million of interest expense, net of deferred financing amortization, associated with the Term A Loan under the Athyrium Credit Agreement.

For the six months ended June 30, 2023, other expense of $21.8 million was comprised primarily of a loss on extinguishment of debt of $29.0 million on the repayment of the term loans under the Athyrium Credit Agreement, partially offset by interest income of $7.1 million and net foreign currency gains of $0.1 million. Other income of $0.6 million for the six months ended June 30, 2022 was comprised of interest income of $0.7 million, partially offset by net foreign currency losses of $0.1 million.

Liquidity and Capital Resources

Our operations have principally been funded through public offerings and private placements of equity securities; our credit facilities; revenues from ORLADEYO; royalty monetization transactions; and cash from collaborative and other research and development agreements, including U.S. Government contracts. In addition to the above, we have previously received funding from other sources, including other collaborative and other research and development agreements, government grants, equipment lease financing, facility leases, research grants, and interest income on our investments.

On April 17, 2023, we entered into the Pharmakon Loan Agreement. The Pharmakon Loan Agreement provides for an initial $300 million Tranche A Loan, which was funded on April 17, 2023. We utilized the proceeds from the Tranche A Loan to repay the approximate $241.8 million of outstanding indebtedness under the then-existing Athyrium Credit Agreement and to pay transaction costs and fees, and we intend to use the remaining net proceeds of approximately $26.1 million for other general corporate purposes. The Pharmakon Loan Agreement also provides for three additional term loan tranches in principal amounts of $50.0 million each, which we may request, at our option, on or prior to September 30, 2024. The maturity date of the Pharmakon Loan Agreement is April 17, 2028. See “Note 7—Debt—Pharmakon Loan

Agreement" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report for additional information about our obligations under the Pharmakon Loan Agreement.

In 2020 and 2021, we entered into the Royalty Purchase Agreements (as defined in "Note 6—Royalty Monetizations—ORLADEYO and Factor D Inhibitors" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report) with RPI 2019 Intermediate Finance Trust ("RPI") and OCM IP Healthcare Holdings Limited, an affiliate of OMERS Capital Markets ("OMERS"). Under the Royalty Purchase Agreements, RPI and OMERS are entitled to receive tiered, sales-based royalties on net product sales of ORLADEYO in the United States and certain key European markets (collectively, the "Key Territories"), and other markets where we sell ORLADEYO directly or through distributors. In addition, RPI and OMERS are entitled to receive a tiered revenue share on amounts generally received by us on account of ORLADEYO sublicense revenue or net sales by licensees outside of the Key Territories. We will be required to make payments to OMERS commencing with the calendar quarter beginning October 1, 2023. See "Note 6—Royalty Monetizations—ORLADEYO and Factor D Inhibitors" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report for additional information about these financing transactions.

As of June 30, 2023, we had net working capital of $417.6 million, an increase of approximately $6.6 million from $411.0 million at December 31, 2022. The increase in working capital was primarily the result of net proceeds of $26.1 million received following the funding of the Tranche A Loan of $300.0 million under the Pharmakon Loan Agreement. Our principal sources of liquidity at June 30, 2023 were approximately $146.2 million in cash and cash equivalents and approximately $264.5 million in investments considered available-for-sale.

We intend to contain costs and cash flow requirements by closely managing our third-party costs and headcount, leasing scientific equipment and facilities, contracting with other parties to conduct certain research and development projects, and using consultants. We expect to incur additional expenses, potentially resulting in significant losses, as we continue to pursue our research and development activities, commercialize ORLADEYO, and hire additional personnel. We may incur additional expenses related to the filing, prosecution, maintenance, defense, and enforcement of patent and other intellectual property claims and additional regulatory costs as our clinical programs advance through later stages of development. The objective of our investment policy is to ensure the safety and preservation of invested funds, as well as to maintain liquidity sufficient to meet cash flow requirements. We place our excess cash with high credit quality financial institutions, commercial companies, and government agencies in order to limit the amount of our credit exposure. We have not realized any significant losses on our investments.

We plan to finance our needs principally from the following:

- lease, royalty, or loan financing;
- public or private equity and/or debt financing;
- our existing capital resources and interest earned on that capital;
- revenues from product sales; and
- payments under current or future collaborative and licensing agreements with corporate partners.

As our commercialization activities and research and development programs continue to advance, our costs will increase. Our current and planned clinical trials, plus the related development, manufacturing, regulatory approval process requirements, and additional personnel resources and testing required for the continuing development of our product candidates and the commercialization of our products will consume significant capital resources and will increase our expenses. Our expenses, revenues and cash utilization rate could vary significantly depending on many factors, including our ability to raise additional capital, the development progress of our collaborative agreements for our product candidates, the amount of funding or assistance, if any, we receive from new partnerships with third parties for the development and/or commercialization of our products and product candidates, the progress and results of our current and proposed clinical trials for our most advanced product candidates, the progress made in the manufacturing of our lead product candidates, the success of our commercialization efforts for, and market acceptance of, our products, and the overall progression of our other programs. The impact of the ongoing COVID-19 pandemic on one or more of the foregoing factors could negatively affect our revenues, expenses, and cash utilization rate.

Based on our expectations for revenue and operating expenses, we believe our financial resources will be sufficient to fund our operations for at least the next 12 months. However, we have sustained operating losses for the majority of our corporate history and expect that our 2023 expenses will exceed our 2023 revenues. We expect to continue to incur operating losses and negative cash flows until revenues reach a level sufficient to support ongoing operations. Our liquidity needs will largely be determined by the success of operations in regard to the successful commercialization of our products and the future progression of our product candidates. We regularly evaluate other opportunities to fund future operations,

including: (1) out-licensing rights to certain of our products or product candidates, pursuant to which we would receive cash milestone payments; (2) raising additional capital through equity or debt financings or from other sources, including royalty or other monetization transactions; (3) obtaining additional product candidate regulatory approvals, which would generate revenue, milestone payments and cash flow; (4) reducing spending on one or more research and development programs, including by discontinuing development; (5) restructuring operations to change our overhead structure; and/or (6) securing U.S. Government funding of our programs, including obtaining procurement contracts. We may issue securities, including common stock, preferred stock, depositary shares, purchase contracts, warrants, debt securities, and units, through private placement transactions or registered public offerings. Our future liquidity needs, and our ability to address those needs, will largely be determined by the success of our products and product candidates; the timing, scope, and magnitude of our research and development and commercial expenses; and key developments and regulatory events and our decisions in the future.

Our long-term capital requirements and the adequacy of our available funds will depend upon many factors, including:

- market acceptance of approved products and successful commercialization of such products by either us or our partners;
- our ability to receive reimbursement and stockpiling procurement contracts;
- the progress and magnitude of our research, drug discovery and development programs;
- changes in existing collaborative relationships;
- our ability to establish additional collaborative relationships with academic institutions, biotechnology or pharmaceutical companies, governmental agencies, distributors or other third parties;
- the extent to which our partners will share in the costs associated with the development of our programs or run the development programs themselves;
- our ability to negotiate favorable development and marketing strategic alliances for certain products and product candidates;
- any decision to build or expand internal development and commercial capabilities;
- the scope and results of preclinical studies and clinical trials to identify and develop product candidates;
- our ability to engage sites and enroll subjects in our clinical trials;
- the scope of manufacturing of our products to support our commercial operations and of our product candidates to support our preclinical research and clinical trials;
- increases in personnel and related costs to support the development and commercialization of our products and product candidates;
- the scope of manufacturing of our drug substance and product candidates required for future new drug application (“NDA”) filings;
- competitive and technological advances;
- the time and costs involved in obtaining regulatory approvals;
- post-approval commitments for ORLADEYO, RAPIVAB, and other products that receive regulatory approval; and
- the costs involved in all aspects of intellectual property strategy and protection, including the costs involved in preparing, filing, prosecuting, maintaining, defending, and enforcing patent claims.

We may in the future be required to raise additional capital to complete the development and commercialization of our products and product candidates, and we may seek to raise capital in the future, including to take advantage of favorable opportunities in the capital markets. Additional funding may not be available when needed or in the form or on terms acceptable to us. Our future working capital requirements, including the need for additional working capital, will largely be determined by the advancement of our portfolio of product candidates and the commercialization of ORLADEYO. More specifically, our working capital requirements will be dependent on the number, magnitude, scope and timing of our development programs; regulatory approval of our product candidates; obtaining funding from collaborative partners; the cost, timing and outcome of regulatory reviews, regulatory investigations, and changes in regulatory requirements; the costs of obtaining patent protection for our product candidates; the timing and terms of business development activities; the rate of technological advances relevant to our operations; the efficiency of manufacturing processes developed on our behalf by third parties; the timing, scope and magnitude of commercial spending; and the level of required administrative support for our daily operations. See “Risk Factors—Risks Relating to Our Business—Financial and Liquidity Risks” and “Risk Factors—Risks Relating to Our Business—Risks Relating to Drug Development and Commercialization—If we fail to obtain additional financing or acceptable partnership arrangements as and when needed, we may be unable to complete the development and commercialization of our products and product candidates or continue operations” in Part II, Item 1A of this report for further discussion of the risks related to obtaining additional capital.

The restrictive covenants contained in the Pharmakon Loan Agreement could cause us to be unable to pursue business opportunities that we or our stockholders may consider beneficial without the lenders' permission or without repaying all obligations outstanding under the Pharmakon Loan Agreement. These covenants limit our ability to, among other things, dispose of assets; engage in mergers, acquisitions, and similar transactions; incur additional indebtedness; grant liens; make investments; pay dividends or make distributions or certain other restricted payments in respect of equity; prepay other indebtedness; enter into restrictive agreements; undertake fundamental changes; or amend certain material contracts. A breach of any of these covenants could result in an event of default under the Pharmakon Loan Agreement. As of June 30, 2023, we were in compliance with the covenants under the Pharmakon Loan Agreement.

Critical Accounting Estimates

We have established various accounting policies that govern the application of U.S. GAAP, which were utilized in the preparation of our consolidated financial statements. Certain accounting policies involve significant judgments and assumptions by management that have a material impact on the carrying value of certain assets and liabilities. Management considers such accounting policies to be critical accounting policies. The judgments and assumptions used by management are based on historical experience and other factors, which are believed to be reasonable under the circumstances. Because of the nature of the judgments and assumptions made by management, actual results could differ from these judgments and estimates, which could have a material impact on the carrying values of assets and liabilities and the results of operations.

While our significant accounting policies are more fully described in "Note 1—Significant Accounting Policies and Concentrations of Risk" in the Notes to Consolidated Financial Statements in Part I, Item 1 of this report, we believe that the following accounting policies are the most critical to aid you in fully understanding and evaluating our reported financial results and affect the more significant judgments and estimates that we use in the preparation of our financial statements.

Revenue Recognition

Pursuant to Accounting Standards Codification ("ASC") Topic 606, we recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. To achieve this core principle, Topic 606 includes provisions within a five step model that includes (i) identifying the contract with a customer, (ii) identifying the performance obligations in the contract, (iii) determining the transaction price, (iv) allocating the transaction price to the performance obligations, and (v) recognizing revenue when, or as, an entity satisfies a performance obligation.

At contract inception, we identify the goods or services promised within each contract, assess whether each promised good or service is distinct, and determine those that are performance obligations. We recognize as revenue the amount of the transaction price that is allocated to the respective performance obligation when the performance obligation is satisfied.

Product Sales, Net

Our principal sources of product sales are sales of ORLADEYO, which we began shipping to patients in December 2020, sales of peramivir to our licensing partners and sales of RAPIVAB to HHS under our procurement contract. In the United States, we ship ORLADEYO directly to patients through a single specialty pharmacy, which is considered our customer. In the European Union, United Kingdom and elsewhere, we sell ORLADEYO to specialty distributors as well as hospitals and pharmacies, which collectively are considered our customers.

We recognize revenue for sales when our customers obtain control of the product, which generally occurs upon delivery. For ORLADEYO, we classify payments to our specialty pharmacy customer for certain services provided by our customer as selling, general and administrative expenses to the extent such services provided are determined to be distinct from the sale of our product.

Net revenue from sales of ORLADEYO is recorded at net selling price (transaction price), which includes estimates of variable consideration for which reserves are established for (i) estimated government rebates, such as Medicaid and Medicare Part D reimbursements, and estimated managed care rebates, (ii) estimated chargebacks, (iii) estimated costs of co-payment assistance programs and (iv) product returns. These reserves are based on the amounts earned or to be claimed on the related sales and are classified as reductions of accounts receivable or as a current liability. Overall, these reserves reflect our best estimates of the amount of consideration to which we are entitled based on the terms of the applicable contract. The amount of variable consideration included in the transaction price may be constrained and is included in the net sales price only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue

recognized will not occur in a future period. Actual amounts of consideration ultimately received may differ from our estimates. If actual results in the future vary from estimates, we adjust these estimates, which would affect net product revenue and earnings in the period such variances become known.

Government and Managed Care Rebates. We contract with government agencies and managed care organizations or, collectively, third-party payors, so that ORLADEYO will be eligible for purchase by, or partial or full reimbursement from, such third-party payors. We estimate the rebates we will provide to third-party payors and deduct these estimated amounts from total gross product revenues at the time the revenues are recognized. These reserves are recorded in the same period in which the revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability. We estimate the rebates that we will provide to third-party payors based upon (i) our contracts with these third-party payors, (ii) the government mandated discounts applicable to government-funded programs, (iii) a range of possible outcomes that are probability-weighted for the estimated payor mix, and (iv) product distribution information obtained from our specialty pharmacy.

Chargebacks. Chargebacks are discounts that occur when certain contracted customers, pharmacy benefit managers, insurance companies, and government programs purchase directly from our specialty pharmacy. These customers purchase our products under contracts negotiated between them and our specialty pharmacy. The specialty pharmacy, in turn, charges back to us the difference between the price the specialty pharmacy paid and the negotiated price paid by the contracted customers, which may be higher or lower than the specialty pharmacy's purchase price from us. We estimate chargebacks and adjust gross product revenues and accounts receivable based on the estimates at the time revenues are recognized.

Co-payment assistance and patient assistance programs. Patients who have commercial insurance and meet certain eligibility requirements may receive co-payment assistance. Based upon the terms of the program and co-payment assistance utilization reports received from the specialty pharmacy, we are able to estimate the co-payment assistance amounts, which are recorded in the same period in which the related revenue is recognized, resulting in a reduction of product revenue. We also offer a patient assistance program that provides free drug product, for a limited period of time, to allow a patient's insurance coverage to be established. Based on patient assistance program utilization reports provided by the specialty pharmacy, we record gross revenue of the product provided and a full reduction of the revenue amount for the free drug discount.

Product returns. We do not provide contractual return rights to our customers, except in instances where the product is damaged or defective. Non-acceptance by the patient of shipped drug product by the specialty pharmacy is reflected as a reversal of sales in the period in which the sales were originally recorded. Reserves for estimated non-acceptances by patients are recorded as a reduction of revenue in the period that the related revenue is recognized, as well as a reduction to accounts receivable. Estimates of non-acceptance are based on quantitative information provided by the specialty pharmacy.

Collaborative and Other Revenues

We have collaboration and license agreements with a number of third parties, as well as research and development agreements with certain government entities. Our primary sources of revenue from these collaborative and other research and development arrangements are license, service and royalty revenues.

Revenue from license fees, royalty payments, milestone payments, and research and development fees are recognized as revenue when the earnings process is complete and we have no further continuing performance obligations or we have completed the performance obligations under the terms of the agreement.

Arrangements that involve the delivery of more than one performance obligation are initially evaluated as to whether the intellectual property licenses granted by us represent distinct performance obligations. If they are determined to be distinct, the value of the intellectual property licenses would be recognized up-front while the research and development service fees would be recognized as the performance obligations are satisfied. For performance obligations based on services performed, we measure progress using an input method based on the effort we expend or costs we incur toward the satisfaction of the performance obligation in relation to the total estimated effort or costs. Variable consideration is assessed at each reporting period as to whether it is not subject to significant future reversal and, therefore, should be included in the transaction price at the inception of the contract. If a contract includes a fixed or minimum amount of research and development support, this also would be included in the transaction price. Changes to collaborations, such as the extensions of the research term or increasing the number of targets or technology covered under an existing agreement, are assessed for whether they represent a modification or should be accounted for as a new contract. For contracts with multiple performance obligations, revenue is allocated to each performance obligation based on its relative standalone

selling price. Standalone selling prices are based on observable prices at which we separately sell the products or services. If a standalone selling price is not directly observable, then we estimate the standalone selling price using either an adjusted market assessment approach or an expected cost plus margin approach, representing the amount that we believe the market is willing to pay for the product or service. Analyzing the arrangement to identify performance obligations requires the use of judgment, and each may be an obligation to deliver services, a right or license to use an asset, or another performance obligation.

Milestone payments are recognized as licensing revenue upon the achievement of specified milestones if (i) the milestone is substantive in nature and the achievement of the milestone was not probable at the inception of the agreement and (ii) we have a right to payment. Any milestone payments received prior to satisfying these revenue recognition criteria are recorded as deferred revenue.

Reimbursements received for direct out-of-pocket expenses related to research and development costs are recorded as revenue in the Consolidated Statements of Comprehensive Loss rather than as a reduction in expenses. Under our contracts with BARDA/HHS and NIAID/HHS, revenue is recognized as reimbursable direct and indirect costs are incurred.

Under certain of our license agreements, we receive royalty payments based upon our licensees' net sales of covered products. Royalties are recognized at the later of when (i) the subsequent sale or usage occurs, or (ii) the performance obligation to which some or all of the sales-based or usage-based royalty has been satisfied.

Inventory

Our inventories primarily relate to ORLADEYO. Additionally, our inventory includes RAPIVAB and peramivir.

We value our inventories at the lower of cost or estimated net realizable value. We determine the cost of our inventories, which includes amounts related to materials, labor, manufacturing overhead and shipping and handling costs on a first-in, first-out (FIFO) basis. Raw materials and work-in-process include all inventory costs prior to packaging and labeling, including raw material, active product ingredient, and the drug product. Finished goods include packaged and labeled products.

Our inventories are subject to expiration dating. We regularly evaluate the carrying value of our inventories and provide valuation reserves for any estimated obsolete, short-dated or unmarketable inventories. In addition, we may experience spoilage of our raw materials and supplies. Our determination that a valuation reserve might be required, in addition to the quantification of such reserve, requires us to utilize significant judgment. During the six months ended June 30, 2023, we evaluated our inventory levels and associated expiration dating relative to the latest sales forecasts for ORLADEYO and RAPIVAB and estimated those inventories at risk of obsolescence. Accordingly, we recorded an increase to the inventory valuation reserve of $0.2 million for a total reserve of $1.4 million as of June 30, 2023.

We expense costs related to the production of inventories as research and development expenses in the period incurred until such time it is believed that future economic benefit is expected to be recognized, which generally is upon receipt of regulatory approval. Upon regulatory approval, we capitalize subsequent costs related to the production of inventories.

Accrued Expenses

We enter into contractual agreements with third-party vendors who provide research and development, manufacturing, distribution, and other services in the ordinary course of business. Some of these contracts are subject to milestone-based invoicing, and services are completed over an extended period of time. We record liabilities under these contractual commitments when we determine an obligation has been incurred, regardless of the timing of the invoice. This process involves reviewing open contracts and purchase orders, communicating with applicable Company personnel to identify services that have been performed on our behalf and estimating the level of service performed and the associated cost incurred for the service when we have not yet been invoiced or otherwise notified of actual cost. The majority of our service providers invoice us monthly in arrears for services performed. We make estimates of our accrued expenses as of each balance sheet date in our financial statements based on the facts and circumstances, which can include assumptions such as expected patient enrollment, site activation and estimated project duration. We periodically confirm the accuracy of our estimates with the service providers and make adjustments if necessary. Examples of estimated accrued expenses include (i) fees paid to clinical research organizations ("CROs") in connection with preclinical and toxicology studies and clinical trials; (ii) fees paid to investigative sites in connection with clinical trials; (iii) fees paid to contract manufacturers

in connection with the production of our raw materials, drug substance, drug products, and product candidates; and (iv) professional fees.

We base our expenses related to clinical trials on our estimates of the services received and efforts expended pursuant to contracts with multiple research institutions and CROs that conduct and manage clinical trials on our behalf. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. Payments under some of these contracts depend on factors such as the successful enrollment of patients and the completion of clinical trial milestones. In accruing service fees, we estimate the time period over which services will be performed and the level of effort expended in each period. If the actual timing of the performance of services or the level of effort varies from our estimate, we will adjust the accrual accordingly. If we do not identify costs that we have begun to incur or if we underestimate or overestimate the level of these costs, our actual expenses could differ from our estimates. As of June 30, 2023 and December 31, 2022, the carrying value of accrued expenses approximates their fair value due to their short-term settlement.

Research and Development Expenses

Our research and development costs are charged to expense when incurred. Research and development expenses include all direct and indirect development costs related to the development of our portfolio of product candidates. Advance payments for goods or services that will be used or rendered for future research and development activities are deferred and capitalized. Such amounts are recognized as expense when the related goods are delivered or the related services are performed. Research and development expenses include, among other items, personnel costs, including salaries and benefits, manufacturing costs, clinical, regulatory, and toxicology services performed by CROs, materials and supplies, and overhead allocations consisting of various administrative and facilities related costs, as well as termination fees and other commitments associated with discontinued programs. Most of our manufacturing and clinical and preclinical studies are performed by third-party CROs. Costs for studies performed by CROs are accrued by us over the service periods specified in the contracts, and estimates are adjusted, if required, based upon our ongoing review of the level of services actually performed.

Additionally, we have license agreements with third parties which require fees related to sublicense agreements or maintenance fees. We expense sublicense payments as incurred unless they are related to revenues that have been deferred, in which case the expenses are deferred and recognized over the related revenue recognition period. We expense maintenance payments as incurred.

Deferred collaboration expenses represent sublicense payments paid to our academic partners upon receipt of consideration from various commercial partners, and other consideration paid to our academic partners for modification to existing license agreements. These deferred expenses would not have been incurred without receipt of such payments or modifications from our commercial partners and are being expensed in proportion to the related revenue being recognized. We believe that this accounting treatment appropriately matches expenses with the associated revenue.

We group our R&D expenses into two major categories: direct external expenses and indirect expenses. Direct expenses consist of compensation for R&D personnel and costs of outside parties to conduct laboratory studies, develop manufacturing processes and manufacture the product candidate, conduct and manage clinical trials, as well as other costs related to our clinical and preclinical studies. Additionally, direct expenses consist of those costs necessary to discontinue and close out a development program, including termination fees and other commitments. These costs are accumulated and tracked by active program. Indirect expenses consist of lab supplies and services, facility expenses, depreciation of development equipment and other overhead of our research and development efforts. These costs apply to work on non-active product candidates and our discovery research efforts.

Stock-Based Compensation

All share-based payments, including grants of stock option awards and restricted stock unit awards, are recognized in our Consolidated Statements of Comprehensive Loss based on their fair values. Stock-based compensation cost is estimated at the grant date based on the fair value of the award and is recognized as expense on a straight-line basis over the requisite service period of the award. Determining the appropriate fair value model and the related assumptions for the model requires judgment, including estimating the life of an award, the stock price volatility, and the expected term. We utilize the Black-Scholes option-pricing model to value our stock option awards and recognize compensation expense on a straight-line basis over the vesting periods. The estimation of share-based payment awards that will ultimately vest requires judgment, and to the extent actual results or updated estimates differ from our current estimates, such amounts will be recorded as a cumulative adjustment in the period estimates are revised. In addition, we have outstanding performance-based stock options and restricted stock units for which no compensation expense is recognized until “performance” is

deemed to have occurred. Significant management judgment is also required in determining estimates of future stock price volatility and forfeitures to be used in the valuation of the options. Actual results, and future changes in estimates, may differ substantially from our current estimates.

Interest Expense and Royalty Financing Obligations

The royalty financing obligations are eligible to be repaid based on royalties from net sales of ORLADEYO and BCX10013. Interest expense is accrued using the effective interest rate method over the estimated period each of the related liabilities will be paid. This requires us to estimate the total amount of future royalty payments to be generated from product sales over the life of the agreement. We impute interest on the carrying value of each of the royalty financing obligations and record interest expense using an imputed effective interest rate. We reassess the expected royalty payments each reporting period and account for any changes through an adjustment to the effective interest rate on a prospective basis. The assumptions used in determining the expected repayment term of the debt and amortization period of the issuance costs requires that we make estimates that could impact the carrying value of each of the liabilities, as well as the periods over which associated issuance costs will be amortized. A significant increase or decrease in forecasted net sales could materially impact each of the liability balances, interest expense and the time periods for repayment.

Income Taxes

The liability method is used in our accounting for income taxes. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse.

We account for uncertain tax positions in accordance with U.S. GAAP. Significant management judgment is required in determining our provision for income taxes, deferred tax assets and liabilities and any valuation allowance recorded against net deferred tax assets. We have recorded a valuation allowance against substantially all potential tax assets, due to uncertainties in our ability to utilize deferred tax assets, primarily consisting of certain net operating losses carried forward, before they expire. The valuation allowance is based on estimates of taxable income in each of the jurisdictions in which we operate and the period over which our deferred tax assets will be recoverable.

Beginning in fiscal year 2021, we began accruing for U.S. state taxes and foreign income taxes as a result of increased nexus in both U.S. state and foreign jurisdictions where historically we had no presence.

In addition, starting in 2022, amendments to Section 174 of the Internal Revenue Code of 1986, as amended (“IRC”), no longer permit an immediate deduction for research and development expenditures in the tax year that such costs are incurred. Instead, these IRC Section 174 development costs must now be capitalized and amortized over either a five- or 15-year period, depending on the location of the activities performed. The new amortization period begins with the midpoint of any taxable year that IRC Section 174 costs are first incurred, regardless of whether the expenditures were made prior to or after July 1, and runs until the midpoint of year five for activities conducted in the United States or year 15 in the case of development conducted on foreign soil.

Recent Accounting Pronouncements

“Note 1—Significant Accounting Policies and Concentrations of Risk” in the Notes to Consolidated Financial Statements included in Part I, Item 1 of this report discusses accounting pronouncements recently issued or proposed but not yet required to be adopted.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Interest Rate Risk

We are subject to interest rate risk on our investment portfolio and borrowings under our Pharmakon Loan Agreement. The Tranche A Loan under the Pharmakon Loan Agreement accrues interest each quarter at a rate equal to the three-month Secured Overnight Financing Rate (“SOFR”), which is capped to be no less than 1.75%, plus 7.00% or, for each quarterly interest period in which a Pharmakon PIK Interest Payment is made, SOFR plus 7.25%. Accordingly, increases in interest rates will increase the associated interest payments that we are required to make on the Tranche A Loan. As of June 30, 2023, interest was accrued at an effective rate of 12.24% on the $300.0 million borrowing under the Pharmakon Loan Agreement.

We invest in marketable securities in accordance with our investment policy. The primary objectives of our investment policy are to preserve capital, maintain proper liquidity to meet operating needs and maximize yields. Our investment policy specifies credit quality standards for our investments and limits the amount of credit exposure to any single issue, issuer or type of investment. We place our excess cash with high credit quality financial institutions, commercial companies, and government agencies in order to limit the amount of credit exposure. Some of the securities we invest in may have market risk. This means that a change in prevailing interest rates may cause the principal amount of the investment to fluctuate.

Our investment exposure to market risk for changes in interest rates relates to the increase or decrease in the amount of interest income we can earn on our portfolio, changes in the market value due to changes in interest rates and other market factors as well as the increase or decrease in any realized gains and losses. Our investment portfolio includes only marketable securities and instruments with active secondary or resale markets to help ensure portfolio liquidity. A hypothetical 100 basis point increase or decrease in interest rates along the entire interest rate yield curve would not significantly affect the fair value of our interest sensitive financial instruments, including our borrowings, but may affect our future earnings and cash flows. We generally have the ability to hold our fixed-income investments to maturity and, therefore, do not expect that our operating results, financial position or cash flows will be materially impacted due to a sudden change in interest rates. However, our future investment income may fall short of expectations due to changes in interest rates, or we may suffer losses in principal if forced to sell securities which have declined in market value due to changes in interest rates or other factors, such as changes in credit risk related to the securities' issuers. To minimize this risk, we schedule our investments to have maturities that coincide with our expected cash flow needs, thus avoiding the need to redeem an investment prior to its maturity date. Accordingly, we do not believe that we have material exposure to interest rate risk arising from our investments. Generally, our investments are not collateralized. We have not realized any significant losses from our investments.

We do not use interest rate derivative instruments to manage exposure to interest rate changes. We ensure the safety and preservation of invested principal funds by limiting default risk, market risk and reinvestment risk. We reduce default risk by investing in investment grade securities.

Foreign Currency Risk

Most of our revenues and expenses are denominated in U.S. dollars. Our commercial sales in Europe are primarily denominated in Euros and the British Pound. We also had other transactions denominated in foreign currencies during the six months ended June 30, 2023, primarily related to operations in Europe, contract manufacturing and ex-U.S. clinical trial activities, and we expect to continue to do so. Our royalties from Torii are derived from Torii's sales of ORLADEYO in Japan. Those sales are denominated in Japanese yen and converted into U.S. dollars for purposes of determining the royalty owed to us. Our limited foreign currency exposure relative to our European operations is to fluctuations in the Euro, British Pound, Swiss Franc, Danish Krone, and Swedish Krona. Additionally, we have initiated operations in Canada and have foreign currency exposure to the Canadian Dollar.

We do not anticipate that foreign currency transaction gains or losses will be significant at our current level of operations. However, transaction gains or losses may become significant in the future as we continue to expand our operations internationally. We have not engaged in foreign currency hedging during the six months ended June 30, 2023; however, we may do so in the future.

Inflation Risk

Inflation generally impacts us by potentially increasing our operating expenses, including clinical trial costs and selling activities. We do not believe that inflation has had a material impact on our business or results of operations during the periods for which the condensed consolidated financial statements are presented in this report. Significant adverse changes in inflation could negatively impact our future results of operations.

Item 4. Controls and Procedures

We maintain a set of disclosure controls and procedures that are designed to ensure that information relating to the Company required to be disclosed in our periodic filings under the Exchange Act is recorded, processed, summarized and reported in a timely manner under the Exchange Act. We carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of June 30, 2023, the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports filed or submitted by it under

the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and include controls and procedures designed to ensure that information required to be disclosed by the Company in such reports is accumulated and communicated to the Company's management, including the Chief Executive Officer and Chief Financial Officer of the Company, as appropriate to allow timely decisions regarding required disclosure.

There have been no changes in our internal control over financial reporting that occurred during the quarter ended June 30, 2023 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1A. Risk Factors

An investment in our stock involves risks. You should carefully read this entire report and consider the following uncertainties and risks, which may adversely affect our business, financial condition or results of operations, along with all of the other information included in our other filings with the SEC, before making an investment decision regarding our common stock.

Risks Relating to Our Business

Risks Relating to COVID-19

Our business, operations, clinical development or commercialization plans and timelines, and access to capital could be adversely affected by the effects of the ongoing COVID-19 pandemic on us or on third parties with whom we conduct business, including without limitation our development partners, manufacturers, CROs, and others, as well as on the regulatory and government agencies with whom we work.

The global COVID-19 pandemic continues to affect the United States and global economies, and could cause disruptions to our business, operations, and clinical development or commercialization plans and timelines, as well as the business and operations of third parties with whom we conduct business. For example, government orders and evolving business policies and procedures have impacted and may continue to impact, among other things: (1) our personnel and those of third parties on whom we rely, including our development partners, manufacturers, CROs, and others; (2) the conduct of our current and future clinical trials and commercial interactions; and (3) the operations of the FDA, European Medicines Agency ("EMA"), Japanese Pharmaceuticals and Medical Devices Agency ("PMDA"), and other health and governmental authorities, which could result in delays of reviews and approvals, including as we continue to expand internationally and bring ORLADEYO to additional global markets.

If our operations or those of third parties with whom we conduct business are impaired or curtailed as a result of these events, the development and commercialization of our products and product candidates could be stopped or delayed, or the costs of such development and commercialization activities could increase, any of which could have a material adverse impact on our business. For example, our suppliers or other vendors may be unable to meet their obligations to us or perform their services as expected as a result of the COVID-19 pandemic or other health epidemics. In such circumstances, we may not be able to enter into arrangements with alternative suppliers or vendors or do so on commercially reasonable terms or in a timely manner. Such delays could adversely impact our ability to meet our desired clinical development and any commercialization timelines. Although we carefully manage our relationships with our suppliers and vendors, there can be no assurance that we will not encounter challenges or delays in the future or that these challenges or delays will not have an adverse impact on our business, financial condition and prospects.

In addition, our clinical trials have been and may continue to be affected by the COVID-19 pandemic. For example, the acceleration of COVID-19 slowed the startup of the inadequate C5 responder cohorts in our complement oral Factor D program and, as a result, delayed the reporting of related data in 2020. Clinical site initiation and patient enrollment may be delayed due to prioritization of hospital resources toward the COVID-19 pandemic or concerns among patients about participating in clinical trials during a pandemic. Some patients may have difficulty following certain aspects of clinical trial protocols if quarantines impede patient movement or interrupt healthcare services. Similarly, our inability to successfully recruit and retain patients and principal investigators and site staff who, as healthcare providers, may have heightened exposure to COVID-19 or experience additional restrictions by their institutions, city, or state could adversely impact our clinical trial operations.

If global health concerns prevent the FDA, EMA, PMDA or other regulatory authorities from conducting their inspections, reviews, or other regulatory activities, it could significantly impact the ability of such authorities to timely review and process our regulatory submissions, which could have a material adverse effect on our business and clinical development and commercialization plans and timelines.

Where possible and practical, we continue to provide work-from-home flexibility for our employees, which could negatively impact productivity, disrupt our business and delay our clinical programs and timelines. We cannot accurately predict the impact on operations of any return-to-the-office plan on our business or on third parties with whom we conduct business. Our business may be negatively impacted in the event that large numbers of employees or key employees do not comply with any applicable protocols. These and similar, and perhaps more severe, disruptions to our operations could negatively impact our business, operating results and financial condition.

The spread of COVID-19, which has caused a broad impact globally, could also materially affect our access to capital. While the future economic impact brought by, and the duration of, COVID-19 may be difficult to assess or predict, the pandemic could result in further significant disruption of global financial markets, reducing our ability to access the equity or debt capital markets or obtain other sources of capital, which could negatively affect our liquidity. In addition, a recession or market correction could materially affect our business and the value of our common stock.

The global pandemic continues to evolve, with the ultimate impact of the COVID-19 pandemic or a similar health epidemic being uncertain and subject to change. These effects could be material, and we will continue to monitor the COVID-19 situation closely. We do not yet know the full extent and magnitude of the impacts that COVID-19 has had or will have on our business, the healthcare system, the pharmaceutical industry, or the global economy. In addition, the COVID-19 pandemic could have the effect of heightening many of the other risks described below.

Financial and Liquidity Risks

We have incurred losses since our inception, expect to continue to incur such losses, and may never be profitable.

Since our inception, we have not achieved sustained profitability. We expect to incur additional losses for the foreseeable future, and our losses could increase as our research and development efforts and commercial activities progress. We expect that such losses will fluctuate from quarter to quarter and that losses and fluctuations may be substantial. To become profitable, we, or our collaborative partners, must successfully manufacture and develop products and product candidates, receive regulatory approvals, and successfully commercialize our products and/or enter into profitable commercialization arrangements with other parties. It could take longer than expected before we receive, or we may never receive, significant revenue from any current or future license agreements or significant revenues directly from product sales. Even if we are able to successfully commercialize our existing products, or to develop or otherwise acquire new commercially viable products, certain obligations we have to third parties, including, without limitation, our obligation to pay RPI and OMERS, as applicable, royalties on certain revenues from ORLADEYO and BCX10013 under the Royalty Purchase Agreements, may reduce the profitability of such products.

Because of the numerous risks and uncertainties associated with developing our product candidates, launching new products, and their potential for commercialization, we are unable to predict the extent of any future losses. Even if we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. If we are unable to achieve and sustain profitability, the market value of our common stock will likely decline.

We may need to raise additional capital in the future. If we are unable to raise capital as and when needed, we may need to adjust our operations.

We have sustained operating losses for the majority of our corporate history and expect that our 2023 expenses will exceed our 2023 revenues. We expect to continue to incur operating losses and negative cash flows unless and until revenues reach a level sufficient to support ongoing operations.

In order to continue future operations, progress our drug discovery and development programs, and commercialize our current products and product candidates, we may be required to raise additional capital in the future. In addition to seeking strategic partnerships and transactions, we may access the equity or debt markets, incur additional borrowings, pursue royalty or other monetization transactions, or seek other sources of funding to meet liquidity needs at any time, including to take advantage of attractive opportunities in the capital markets. Additional funding, whether through additional sales of securities, additional borrowings, royalty or other monetization transactions, collaborative arrangements with partners, or from other sources, may not be available when needed or in a form or on terms acceptable to us. The issuance of preferred or common stock or convertible securities, with terms and prices significantly more favorable than those of our currently outstanding common stock, could have the effect of diluting or adversely affecting the holdings or rights of our existing stockholders. Additional borrowings may subject us to more restrictive covenants than are currently applicable to us under the Pharmakon Loan Agreement. In addition, collaborative arrangements may require us to transfer certain material rights to our corporate partners. Insufficient funds or lack of an acceptable partnership may require us to delay, scale-back or eliminate certain of our research and development programs. See “Risks Relating to Our Business—Risks Relating to Drug Development and Commercialization—If we fail to obtain additional financing or acceptable partnership arrangements as and when needed, we may be unable to complete the development and commercialization of our products and product candidates or continue operations” in this section for further discussion of the capital requirements for our development and commercialization efforts.

Our liquidity needs will largely be determined by the success of operations in regard to the commercialization of our products, particularly ORLADEYO, and the progression of our product candidates in the future. Our plans for managing

our liquidity needs primarily include controlling the timing and spending on our research and development programs, raising additional funds as discussed herein, and commercializing our approved products. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources” in Part I, Item 2 of this report for additional information about our liquidity needs, capital requirements, potential funding alternatives, and adequacy of available funds.

There can be no assurance that any of our plans will be successful or that additional capital will be available to us on reasonable terms, or at all, when needed. If we are unable to obtain sufficient additional capital as and when needed, we may be forced to adjust or curtail our operations; delay, reduce, or stop ongoing clinical trials or commercialization efforts; cease operations altogether; or file for bankruptcy.

Risks Relating to Drug Development and Commercialization

Our success depends upon our ability to manage our product candidate pipeline, advance our product candidates through the various stages of development, especially through the clinical trial process, and to receive regulatory approvals for the commercial sale of our product candidates.

The success of our business depends upon our ability to manage our product candidate pipeline, including through expanding the pipeline, as appropriate, through our internal identification and discovery of product candidates or otherwise in-licensing or acquiring products or product candidates and integrating them into our business effectively and efficiently; advancing our product candidates through the various stages of development; and receiving regulatory approvals for the commercial sale of our product candidates. Identifying, selecting, and in-licensing or acquiring products or product candidates requires substantial expense and technical and financial expertise, and if we are unable to effectively manage our pipeline and integrate viable products or product candidates into our business on acceptable terms, or at all, our business and drug development efforts would suffer.

To receive the regulatory approvals necessary for the commercial sale of our product candidates, we or our partners must demonstrate through preclinical studies and clinical trials that each product candidate is safe and effective. The development process and related regulatory process are complex and uncertain. The preclinical and clinical development of our product candidates is susceptible to the risk of failure inherent at any stage of drug development, including failure to demonstrate efficacy and safety, failure to demonstrate adequate benefit-risk balance, failure to achieve a commercially attractive and competitive product label, failure to achieve approval in commercially attractive indications, the occurrence of adverse events that are severe or medically or commercially unacceptable, our or our partners’ failure to comply with trial protocols, applicable regulatory requirements, or industry standards, or a determination by the FDA or any comparable foreign regulatory authority that a product candidate may not continue development or be approved in accordance with our development plans or at all. We cannot guarantee that any preclinical studies and clinical trials will be conducted as planned or completed on schedule, if at all, or that the results of such trials will be sufficient to support regulatory approval for our product candidates.

Progression of our product candidates through the clinical development process is dependent upon our trials indicating that our product candidates have adequate safety and efficacy in the patients being treated by achieving pre-determined safety and efficacy endpoints according to the clinical trial protocols, as well as an adequate benefit-risk profile. Failure to achieve any of these endpoints or to show adequate benefit-risk profile in any of our programs, including our complement program (inclusive of BCX10013) and our other rare disease product candidates, could result in delays in or modifications to our trials or require the performance of additional unplanned trials. For example, dose-related observations in an ongoing BCX10013 nonclinical study reported earlier this year delayed the clinical program. If any of our product candidates is associated with adverse events or undesirable side effects or has properties that are unexpected, we may need to abandon development or limit development of that product candidate to certain uses or subpopulations in which the undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a benefit-risk perspective. Product candidates that initially show promise in clinical or preclinical testing could later be found to be associated with or to cause undesirable or unexpected side effects that could result in substantial modifications or delays in the development plans for our product candidates, significant unexpected costs, or the termination of programs, such as we experienced with BCX9930 in 2022 prior to discontinuing its development later that year.

In addition, the development plans for our product candidates, including our clinical trials (inclusive of BCX10013), may not be adequately designed or executed, which could negatively affect the outcome and analysis of study results. Because of the cost and duration of clinical trials, we have decided in the past, and may in the future decide, to discontinue development of product candidates for various reasons, including, but not limited to, that they are unlikely to show

favorable results in clinical trials, unlikely to help advance a product to the point of a meaningful collaboration, or unlikely to have reasonable commercial potential.

Undesirable or inconclusive data in our preclinical studies and clinical trials or side effects in humans could result in the FDA or foreign regulatory authorities (including, e.g., the EMA, the Ministry of Health, Labor and Welfare ("MHLW") in Japan or the United Kingdom's Medicines and Healthcare Regulatory Agency ("MHRA")) refusing to approve a product candidate for any targeted indications or imposing restrictions or warnings that could impact development or the ultimate commercial viability of a product candidate. In addition, the FDA or foreign regulatory authorities may determine that study data from our product candidates necessitates additional studies or study designs which differ from our planned development strategy, and such regulatory authorities may also require patient monitoring and testing or may implement restrictions or other conditions on our development activities, any of which could materially impact the cost and timing of our planned development strategy. We, our partners, the FDA, or foreign regulatory authorities have previously, and may again in the future, pause enrollment in, suspend, or terminate clinical trials at any time if we or they believe the trial participants face unacceptable health risks.

Our ability to complete the clinical development process successfully is dependent upon many factors, including, but not limited to:

- our or our partners' ability to secure suitable clinical sites and investigators and to enroll and maintain an adequate number of patients on a timely basis or at all;
- patients that enroll in a clinical trial may not comply with the clinical trial protocols or maintain contact with investigators to provide complete data during and after treatment;
- our product candidates may not prove to be either safe or effective or may produce unfavorable or inconclusive results;
- we or our partners may decide, or be required by regulatory authorities, to pause enrollment in, suspend, or terminate clinical research for various reasons, including a finding that the participants are being exposed to unacceptable health risks, undesirable side effects or other unexpected characteristics of the product candidate, noncompliance with regulatory requirements or their standards of conduct, or findings of undesirable effects caused by a chemically or mechanistically similar product or product candidate;
- regulatory authorities may disagree with our or our partners' clinical trial protocols or our or their interpretation of data from preclinical studies and clinical trials;
- clinical protocols or study procedures may not be adequately designed or followed by the investigators;
- formulation improvements may not work as expected, which could negatively impact commercial demand for our product candidates;
- regulatory authorities may fail to approve or subsequently find fault with the manufacturing processes or facilities of third-party manufacturers with which we or our partners enter into agreements for clinical and commercial supplies;
- the supply or quantity of raw materials or manufactured product candidates or other materials necessary to conduct development activities may be insufficient, inadequate, or unavailable at an acceptable cost, and we or our partners may experience interruptions in supply;
- our or our partners' development plans may be delayed or changed as a result of changes in development strategy, the impact of new or different regulations, requirements, and guidelines, or other unexpected events or conditions;
- the cost of preclinical studies and clinical trials may be greater than we anticipate;
- we or our third-party contractors, including those manufacturing our product candidates or components or ingredients thereof, or conducting clinical trials or laboratory testing on our or our partners' behalf, may fail to comply with regulatory requirements and industry standards or meet contractual obligations in a timely manner or at all; and
- the impact of the ongoing COVID-19 pandemic on one or more of the foregoing factors.

Clinical trials are lengthy and expensive. Many of the factors listed above could result in increased clinical development costs or longer clinical development times for any of our programs. We and our partners incur substantial expense for, and devote significant time to, preclinical testing and clinical trials, yet we cannot be certain that the tests and trials will ever result in the commercial sale of a product. Even if we or our partners successfully complete clinical trials for our product candidates, we or our partners might not file the required regulatory submissions in a timely manner or may not receive regulatory approval for the product candidates, which in either case would adversely impact or preclude our ability to generate any revenues from product sales or licensing arrangements. In addition, any product candidate, if approved, may be subject to restrictions on labeling, marketing, distribution, prescribing, and use, which could adversely impact the sales of such product.

If our development collaborations with third parties, such as our development partners, contractors and contract research organizations, fail, the development of our product candidates will be delayed or stopped.

We rely heavily upon third parties for many important stages of our product candidate development, including, but not limited to:

- discovery of natural proteins that cause or enable biological reactions necessary for the progression of the disease or disorder, called enzyme targets;
- execution of certain pharmacology preclinical studies and late-stage development for our compounds and product candidates;
- management of our phase 1, 2 and 3 clinical trials, including medical monitoring, laboratory testing, and data management;
- execution of toxicology studies that may be required to obtain approval for our product candidates;
- formulation improvement strategies and methods;
- manufacturing the starting materials and drug substance required to formulate our products and the product candidates to be used in our clinical trials, toxicology studies and any potential commercial product; and
- management of certain regulatory interactions outside of the United States.

Our failure to engage in successful collaborations at any one of these stages would greatly impact our business. If we do not license enzyme targets or inhibitors from academic institutions or from other biotechnology companies on acceptable terms, or at all, our drug development efforts would suffer. Similarly, if the contract research organizations or third-party contractors that conduct our initial or late-stage clinical trials, conduct our toxicology or other studies, manufacture our starting materials, drug substance and product candidates, provide laboratory testing or other services (including clinical operation services) in connection with our clinical trials, provide medical writing services, or assist with our regulatory function breach their obligations to us, perform their services inconsistent with industry standards, or fail to comply with regulatory requirements, this would delay or prevent both the development of our product candidates and the availability of any potential commercial product.

If we lose our relationship with any one or more of these parties, we could experience a significant delay in both identifying another comparable provider and then contracting for its services. We may be unable to retain an alternative provider on reasonable terms, if at all. Even if we locate an alternative provider, it is likely that this provider may need additional time to respond to our needs and may not provide the same type or level of service as the original provider. In addition, any provider that we retain will be subject to applicable FDA current Good Laboratory Practices, current Good Manufacturing Practices (“cGMP”) and current Good Clinical Practices, and comparable foreign standards. We do not have control over compliance with these regulations by these providers. Consequently, if these practices and standards are not adhered to by these providers, the development and commercialization of our product candidates could be delayed. If any of the foregoing risks is realized, our business, financial condition and results of operations could be materially adversely affected.

If we fail to obtain additional financing or acceptable partnership arrangements as and when needed, we may be unable to complete the development and commercialization of our products and product candidates or continue operations.

As our programs advance, our costs are likely to increase. Our current and planned discovery, development, approval, and commercialization efforts will require significant capital. Our expenses, revenues and cash utilization rate could vary significantly depending on many factors, including: our ability to effectively manage our product candidate pipeline; our ability to obtain regulatory approvals for our product candidates, including BCX10013; our ability to maintain regulatory approvals for, successfully commercialize, and achieve market acceptance of our products, including ORLADEYO; our ability to raise additional capital as and when needed; the amount of funding we receive from partnerships with third parties for the development and commercialization of our products and product candidates; the commercial success of our products achieved by our partners; the progress and results of our current and proposed clinical trials for our product candidates; and the progress made in the manufacture of our lead products and the progression of our other programs.

In order to continue future operations, progress our drug discovery and development programs, and commercialize our current products and product candidates, we may be required to raise additional capital. Our ability to raise additional capital as and when needed, or at all, may be limited and may greatly depend upon our success in commercializing and achieving market acceptance of ORLADEYO and the success of our current drug development programs, including the progress, timeline and ultimate outcome of the development programs (including, but not limited to, formulation progress, long-term human safety studies, clinical trial investigations, and carcinogenicity, drug-drug interaction, toxicity, or other

required studies) for our complement program (including BCX10013) for diseases of the complement system and other rare disease product candidates, as well as any post-approval studies for our products. In addition, constriction and volatility in the equity and debt markets, including as a result of the impacts of COVID-19, rising inflation, increased interest rates, or disruption or instability in the banking industry, may restrict our future flexibility to raise capital as and when such needs arise. See "Risks Relating to Our Business—Financial and Liquidity Risks—We may need to raise additional capital in the future. If we are unable to raise capital as and when needed, we may need to adjust our operations" in this section and "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" in Part I, Item 2 of this report for additional information about our liquidity risks and capital requirements.

Furthermore, we have exposure to many different industries, financing partners and counterparties, including commercial banks, investment banks and partners (which include investors, licensing partners, distribution partners, and others), which may be unstable or may become unstable in the current economic and political environment, including as a result of the impacts of COVID-19, rising inflation, increased interest rates, disruption or instability in the banking industry, or the conflict in Ukraine. Any such instability may impact these parties' ability to fulfill contractual obligations to us, or it might limit or place burdensome conditions upon future transactions with us. Also, it is possible that suppliers may be negatively impacted. Any such unfavorable outcomes in our current programs or unfavorable economic conditions have in the past and could again place severe downward pressure on the price of our common stock and may decrease opportunities to raise capital in the capital or credit markets, and further could reduce the return available on invested corporate cash, which, if severe and sustained, could have a material and adverse impact on our results of operations and cash flows and limit our ability to continue development and commercialization of our products and product candidates.

If we or our partners do not obtain regulatory approvals for our product candidates or maintain regulatory approvals for our products, we or our partners will not be able to commercialize and sell these products and potential products, which would significantly harm our business because we will receive no revenue.

We or our partners must obtain regulatory approvals before marketing or selling our products. If the FDA or a comparable foreign regulatory authority delays or denies regulatory approval of one of our product candidates, or revokes approval of a previously approved product, we would be unable to market or sell the product in the applicable jurisdiction and would not receive revenue from sales or licensing arrangements related thereto, which could have a material and adverse impact on our business.

The process of preparing for and obtaining regulatory approval in any jurisdiction may be lengthy and expensive, and approval is never certain. Because of the risks and uncertainties inherent to the development process, including risks and uncertainties related to the impact of COVID-19, our product candidates could take a significantly longer time to gain regulatory approval than we expect or may never gain approval. As discussed under "Risk Factors—Risks Relating to Our Business—Risks Relating to Drug Development and Commercialization—Our success depends upon our ability to manage our product candidate pipeline, advance our product candidates through the various stages of development, especially through the clinical trial process, and to receive regulatory approvals for the commercial sale of our product candidates," we and our partners have experienced, and may again in the future experience, any number of unfavorable outcomes during or as a result of preclinical studies and clinical trials that could delay or prevent regulatory approval of our product candidates, or negatively impact our management's credibility, our value and our operating results.

Even if the FDA or foreign regulatory authorities approve a product candidate, the approval may limit the indicated uses for a product candidate, impose other restrictions on the product candidate, and/or may require post-approval studies that could impair the commercial viability of a product candidate. Even upon any approval to market our potential products, whether in the United States or internationally, we will continue to be subject to extensive regulatory requirements.

Our failure to comply with existing or future regulatory requirements for regulatory approval, or our loss of, or changes to, previously obtained approvals, could impair our ability to generate any revenues from product sales or licensing arrangements, which could have a material adverse effect on our business, financial condition, and results of operations.

We focus on rare diseases, which may create additional risks and challenges.

Because we focus on developing drugs as treatments for rare diseases, we may seek orphan drug, breakthrough therapy or fast track designations for our product candidates in the United States or the equivalent designations elsewhere in the world. Often, regulatory authorities have broad discretion in determining whether or not to grant such designations. We cannot guarantee that our product candidates will receive orphan drug status from the FDA or equivalent designations

from other regulatory authorities. We also cannot guarantee that we will receive breakthrough therapy, fast track, or equivalent designations, which provide certain potential benefits such as more frequent meetings with the applicable regulatory authorities to discuss development plans, intensive guidance on efficient drug development programs, and potential eligibility for rolling review or priority review. Even if we are successful in obtaining any such designations for our product candidates, such designations may not lead to faster development or regulatory review or approval and do not increase the likelihood that our product candidates will receive marketing approval. We may not be able to obtain or maintain these designations for our product candidates that receive them, and our competitors may obtain these designations for their product candidates, which could impact our ability to develop and commercialize our products and product candidates or compete with such competitors, which may adversely impact our business, financial condition or results of operations.

The commercial viability of any approved product could be compromised if the product is less effective than expected, causes undesirable side effects that either were not previously identified or were worse than expected, or fails to achieve market acceptance within the medical community.

If, after obtaining regulatory approval of a product, we or others discover that the product is less effective than previously believed or causes undesirable side effects that either were not previously identified or were worse than expected, any of the following adverse events could occur:

- regulatory authorities may withdraw their approval of, or impose marketing or manufacturing restrictions on, the product, or require us or our partners to create a medication guide outlining the risks of unidentified side effects for distribution to patients;
- we or our partners may be required to recall the product, change the way the product is administered, conduct additional clinical trials, or be subject to civil or criminal penalties; and
- the product may become less competitive and our reputation may suffer.

Even after receiving regulatory approval, any product could fail to gain sufficient, or any, market acceptance by physicians, patients, third-party payors, health authorities and others in the medical community. For example, physicians are often reluctant to switch their patients from existing therapies even when new and potentially more effective or convenient treatments enter the market. Further, patients often acclimate to the therapy that they are currently taking and do not want to switch unless their physicians recommend switching products or they are required to switch therapies due to lack of reimbursement for existing therapies. If an approved product does not achieve an adequate level of market acceptance, it may not generate significant revenues. The occurrence of any of the foregoing could have a material and adverse impact on our business.

If we fail to successfully commercialize or establish collaborative relationships to commercialize certain of our products and product candidates, or if any partner terminates or fails to perform its obligations under agreements with us, potential revenues from commercialization of our products and product candidates could be reduced, delayed or eliminated.

Our business strategy includes increasing the asset value of our product and product candidate portfolio. We believe this is best achieved by retaining full product rights or through collaborative arrangements with third parties as appropriate. As needed, potential third-party relationships could relate to preclinical development, clinical development, regulatory approval, marketing, sales, and distribution of our products and product candidates.

Currently, we have established collaborative relationships, including with Torii for the commercialization of ORLADEYO in Japan, with third-party distributors for ORLADEYO in certain other markets, and with each of Shionogi and Green Cross for the development and commercialization of peramivir. The process of establishing and implementing collaborative relationships is difficult, time-consuming and involves significant uncertainty, including:

- we or our partners may seek to renegotiate or terminate our relationships due to unsatisfactory commercial, regulatory or clinical results, including post-approval clinical commitments, a change in business strategy, a change of control or other reasons;
- our contracts for collaborative arrangements may expire;
- the possibility that expiration or termination of collaborative relationships, such as those with certain of our distribution partners, may trigger repurchase obligations of the Company for unsold product held by our partners;
- our partners may choose to pursue alternative technologies, including those of our competitors;
- we have had in the past, and in the future may have, disputes with a partner that could lead to litigation or arbitration, which could result in substantial costs and divert the attention of our management;

- we do not have day-to-day control over the activities of our partners and have limited control over their decisions;
- our ability to generate future event payments and royalties from our partners depends upon their abilities to establish the safety and efficacy of our product candidates, obtain regulatory approvals and achieve market acceptance of products developed from our product candidates;
- we or our partners may fail to properly initiate, maintain or defend our intellectual property rights, where applicable, or a party may utilize our proprietary information in such a way as to invite litigation that could jeopardize or potentially invalidate our proprietary information or expose us to potential liability;
- we or our partners may not devote sufficient capital or resources toward our products and product candidates; and
- we or our partners may not comply with applicable government regulatory requirements.

If we or our partners fail to fulfill our responsibilities in a timely manner, or at all, our development and commercialization efforts related to that collaboration could be reduced, delayed or terminated, or it may be necessary for us to assume responsibility for activities that would otherwise have been the responsibility of our partner. If we are unable to establish and maintain collaborative relationships on acceptable terms, we may have to delay or discontinue further development or commercialization of one or more of our products or product candidates, undertake commercialization activities at our own expense or find alternative sources of funding. Any delay in the development or commercialization of our products and product candidates would severely affect our business, because if our product candidates do not progress through the development process or reach the market in a timely manner, or at all, or if our products do not achieve market success, we may not receive any revenues from product sales or licensing arrangements.

The results of our partnership with Torii may not meet our current expectations.

We have an agreement with Torii for the development and commercialization of ORLADEYO in Japan. Our ability to realize the expected benefits of this collaboration, including with respect to the receipt or amounts of royalty payments, is subject to a number of risks, including that the commercial potential of ORLADEYO may not meet our current expectations, we or Torii may fail to comply with our respective obligations under the Torii Agreement, and third parties may fail to perform their obligations to us on a timely basis or at all.

The Torii Agreement provides that we are entitled to receive tiered royalty payments, the amounts of which will depend upon the amount of annual net sales of ORLADEYO in Japan during each calendar year and other factors. We currently remain responsible for regulatory activities with respect to ORLADEYO in Japan, and we continue to use third parties to satisfy many of our obligations under the Torii Agreement, including, but not limited to, our regulatory and other responsibilities in Japan. If our interactions, or those of our third-party agents, are unsuccessful, we could fail to meet our obligations under the Torii Agreement, which could negatively impact the commercial success and the partnership, impact the economic benefit expected, or require additional development of ORLADEYO.

Torii has sole control over, and decision-making authority with respect to, commercialization activities for ORLADEYO for the prevention of HAE attacks in Japan, subject to oversight from a joint steering committee. Therefore, our receipt, and the amounts, of any royalty payments under the Torii Agreement are dependent upon Torii's successful performance of such commercialization activities. In addition, competitive products and variations in patient demand, prescription levels, reimbursement determinations or other factors may limit the commercial potential of ORLADEYO in Japan, which could materially reduce the amount of any royalties we are entitled to receive under the Torii Agreement.

Under the Torii Agreement, we are responsible for supplying Torii with its required amounts of ORLADEYO for commercial sale. If, due to the failure of our third-party contract manufacturers to produce sufficient drug product, we fail to supply to Torii the required amounts of ORLADEYO, then Torii's ability to successfully commercialize ORLADEYO in Japan could be materially impaired, and we may receive less royalty income under the Torii Agreement, or none at all.

Any of the foregoing risks could materially adversely impact our ability to perform our obligations under the Torii Agreement, which could reduce the economic benefits of the Torii Agreement to us and impair or result in the termination of our collaboration with Torii.

There can be no assurance that our or our partners' commercialization efforts, methods, and strategies for our products or technologies will succeed, and our future revenue generation is uncertain.

There can be no assurance that our or our partners' commercialization efforts, methods and strategies will succeed. We may be unable to establish or sufficiently increase our sales, marketing and distribution capabilities for products we currently, or plan to, commercialize. Our ability to receive revenue from products we or our partners commercialize is subject to several risks, including:

- we or our partners may fail to complete clinical trials successfully or satisfy post-marketing commitments sufficient to obtain and maintain regulatory agency marketing approval;
- many competitors are more experienced and have significantly more resources, and their products could reach the market faster, be more cost effective or have a better efficacy or tolerability profile than our products and product candidates;
- we may fail to employ a comprehensive and effective intellectual property strategy, which could result in decreased commercial value of our Company, our products and product candidates, or royalties associated with such products (e.g., the loss of the peramivir patent in Korea, which may result in a reduced royalty from Green Cross);
- we may fail to employ a comprehensive and effective regulatory strategy, which could result in a delay or failure in commercialization of our products;
- our and our partners' ability to successfully commercialize our products is affected by the competitive landscape, which cannot be fully known at this time;
- revenue from product sales depends on our ability to obtain and maintain favorable pricing;
- reimbursement is constantly changing, which could greatly affect usage of our products;
- future revenue from product sales will depend on our ability to successfully complete clinical studies, obtain regulatory approvals, and manufacture, market, distribute and commercialize our approved drugs; and
- the impact of the COVID-19 pandemic on us or our partners.

In addition, future revenue from sales of ORLADEYO is subject to uncertainties and will depend on several factors, including the success of our and our partners' commercialization efforts in the United States and elsewhere, the number of new patients switching to ORLADEYO, patient retention and demand, the number of physicians prescribing ORLADEYO, the rate of monthly prescriptions, reimbursement from third-party and government payors, the number of patients receiving free product, the conversion of patients from our clinical trials and early access programs to commercial customers, our pricing strategy, and market trends.

Even if we are able to successfully commercialize our existing products, or to develop new commercially viable products, certain obligations we have to third parties, including, without limitation, our obligations to pay royalties on certain revenues from ORLADEYO and BCX10013 under the Royalty Purchase Agreements, may reduce the profitability of such products.

We have expanded, and may continue expanding, our development and regulatory capabilities and are implementing sales, marketing and distribution capabilities, and as a result, we may encounter difficulties in managing our growth, which could disrupt our operations.

We have experienced, and may continue to experience, significant growth in the number of our employees and the scope of our operations in the United States and internationally, particularly in the areas of drug development, regulatory affairs, sales, marketing, and distribution. To manage our growth, we must continue to implement and improve our managerial, operational and financial systems and processes, expand our facilities and continue to recruit and train qualified personnel. Due to our limited financial resources and the limited experience of our management team in managing a company with such growth, we may not be able to effectively manage the expansion of our operations, implement appropriate systems and processes in a timely manner or at all, or recruit, train, and retain qualified personnel. The expansion of our operations may lead to significant costs and may divert our management and business development resources. In addition, if a commercial launch for any product or product candidate for which we recruit a commercial team and establish marketing capabilities in any region is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

We depend on third-party vendors in the manufacture and distribution of our products, product candidates and the materials for our products and product candidates. If we cannot rely on existing third-party vendors, we will be required to incur significant costs and potential delays in finding new third-party vendors, which could adversely impact the development and commercialization timeframes for our products and product candidates.

We depend on third-party vendors, including third-party manufacturers, distributors, and specialty pharmacies, in the manufacture and distribution of our products, product candidates, and the materials for our products and product candidates. Often, especially in the early development and commercialization process, we have only one or limited sources for a particular product or service, such as manufacturing and/or distribution. We depend on these third-party vendors to perform their obligations in a timely manner and in accordance with applicable governmental regulations. Our third-party vendors, particularly our third-party manufacturers and distributors, each of which may be the only vendor we have engaged for a particular product, product candidate, or service or in a particular region, may encounter difficulties with meeting our requirements, including, but not limited to, problems involving, as applicable:

- insufficient resources being devoted in the manner necessary to satisfy our requirements within expected timeframes;
- inconsistent production yields;
- product liability claims or recalls of commercial product;
- difficulties in scaling production to commercial and validation sizes;
- interruption of the delivery of materials required for the manufacturing process;
- failure to distribute commercial supplies of our products to commercial vendors or end users in a timely manner;
- scheduling of plant time with other vendors or unexpected equipment failure;
- potential catastrophes that could strike their facilities or have an effect on infrastructure;
- potential impurities in our drug substance or products that could affect availability of product for our clinical trials or future commercialization;
- poor quality control and assurance or inadequate process controls;
- failure to provide us with accurate or timely information regarding inventories, the number of patients who are using our products, or serious adverse events and/or product complaints regarding our products;
- inability of third parties to satisfy their financial obligations to us or to others;
- potential breach of the manufacturing or distribution agreement by the third party;
- possible termination or nonrenewal of a critical agreement by the third party at a time that is costly or inconvenient to us; and
- lack of compliance or cooperation with regulations and specifications or requests set forth by the FDA or other foreign regulatory agencies or local customs, particularly associated with ORLADEYO, BCX10013, peramivir and our early-stage compounds.

Many additional factors could cause production or distribution interruptions with the manufacture and distribution of any of our products and product candidates, including human error, natural disasters, pandemics, labor disputes or shortages, acts of terrorism or war, equipment malfunctions, raw material shortages or supply chain issues. If our commercial distribution partners are not able to satisfy our requirements within the expected timeframe, or are unable to provide us with accurate or timely information and data, including with respect to inventories and sales, serious adverse events, and/or product complaints, our business, including our commercialization efforts for and sales of ORLADEYO, may be at risk. In addition, if specialty pharmacy services, including our third-party call center services, which provide patient support and financial services, prescription intake and distribution, reimbursement adjudication, and ongoing compliance support, are not effectively managed, the continuance of our commercialization efforts for and sales of ORLADEYO may be delayed or compromised.

In addition, our contract manufacturers may not be able to manufacture the materials required for our products or product candidates at a cost or in quantities necessary to make them commercially viable. Our raw materials, drug substances, products, and product candidates are manufactured by a limited group of suppliers, including some at a single facility. If any of these suppliers were unable to produce these items, this could significantly impact our supply of products and product candidate material for further preclinical testing and clinical trials. Our third-party manufacturers also may not meet our manufacturing requirements. Furthermore, changes in the manufacturing process or procedures, including a change in the location where the drug is manufactured or a change of a third-party manufacturer, may require prior review and approval in accordance with the FDA's cGMP and comparable foreign requirements. This review may be costly and time-consuming and could delay or prevent the launch of a product. The FDA or foreign regulatory authorities may at any time implement new standards, or change their interpretation and enforcement of existing standards, for manufacture, packaging or testing of products. If we or our contract manufacturers are unable to comply, we or they may be subject to

regulatory action, civil actions or penalties, any of which could be costly to us and could result in a delay or shortage of product.

If we are unable to maintain current third-party relationships, or enter into new agreements with additional third parties on commercially reasonable terms, or at all, or if there is poor manufacturing or distribution performance or failure to comply with any regulatory agency on the part of any of our third-party vendors, we may not be able to complete development of, obtain timely approval of, or commercialize our products and product candidates.

Commercialization of our products by us and our partners is subject to the potential commercialization risks described herein and numerous additional risks. Any potential revenue benefits to us, including in the form of milestone payments, royalties or other consideration are highly speculative.

Commercial success of our products is uncertain and is subject to all the risks and uncertainties disclosed in our other risk factors relating to drug development and commercialization. In addition, commercialization of our products is subject to further risks and may be negatively impacted by a number of factors, including, but not limited to, the following:

- our products may not prove to be adequately safe and effective for market approval in markets other than the markets in which they are currently approved;
- necessary funding for post-marketing commitments and further development of our products may not be available timely, at all, or in sufficient amounts;
- advances in competing products could substantially replace potential demand for our products;
- government and third-party payors may not provide sufficient coverage or reimbursement, which would negatively impact the demand for our products;
- we may not be able to supply commercial material to our partners and our partners may not be able to maintain or establish sufficient and acceptable commercial manufacturing, either directly or through third-party manufacturers;
- the commercial demand and acceptance for our products by healthcare providers and by patients may not be sufficient to result in substantial product revenues to us or to our partners and may result in little to no revenue, milestone payments, or royalties to us;
- effectiveness of marketing and commercialization efforts for our products by us or our partners;
- market satisfaction with existing alternative therapies;
- perceived efficacy relative to other available therapies;
- disease prevalence;
- cost of treatment;
- our pricing and reimbursement strategy may not be effective;
- new legislative or regulatory proposals may influence our pricing and reimbursement strategy, which could impact product revenues;
- pricing and availability of imports or alternative products;
- marketing and sales activities of competitors;
- shifts in the medical community to new treatment paradigms or standards of care; and
- relative convenience and ease of administration.

Risks Relating to Competing in Our Industry

We face intense competition, and if we are unable to compete effectively, the demand for our products may be reduced.

The biotechnology and pharmaceutical industries are highly competitive and subject to rapid and substantial technological change. There are many companies seeking to develop products for the same indications that we currently target. Our competitors in the United States and elsewhere are numerous and include, among others, major multinational pharmaceutical and chemical companies and specialized biotechnology firms. Most of these competitors have greater resources than we do, including greater financial resources, larger research and development staffs and more experienced manufacturing, marketing, and sales organizations. In addition, most of our competitors have greater experience than we do in conducting clinical trials and obtaining FDA and other regulatory approvals. Accordingly, our competitors may succeed in obtaining FDA or other regulatory approvals of product candidates more rapidly than we do for products that compete with our products. Companies that complete clinical trials, obtain required regulatory approvals, and commence commercial sale of their drugs before we do may achieve a significant competitive advantage, including patent and FDA exclusivity rights that would delay our ability to market products. We face, and will continue to face, competition in the commercialization of our products, licensing of potential product candidates for desirable disease targets, licensing of desirable product candidates, and development and marketing of our product candidates from academic institutions,

government agencies, research institutions and biotechnology and pharmaceutical companies. Competition may also arise from, among other things:

- other drug development technologies;
- methods of preventing or reducing the incidence of disease, including vaccines; and
- new small molecule or other classes of therapeutic agents.

Developments by others may render our products, product candidates, or technologies obsolete or noncompetitive.

We received FDA approval of ORLADEYO, an oral, once-daily therapy for the prevention of HAE attacks in adults and pediatric patients aged 12 years and older, in December 2020. We subsequently received regulatory approvals for ORLADEYO in multiple markets. In addition, we are performing research on or developing products for the treatment of several other rare diseases, including diseases of the complement system. We expect to encounter significant competition for our pharmaceutical products and product candidates. Companies that complete clinical trials, obtain required funding or government support, obtain required regulatory approvals and commence commercial sales or stockpiling orders of their products before their competitors may achieve a significant competitive advantage. In addition, various government entities throughout the world may offer incentives, grants and contracts to encourage additional investment into certain preventative and therapeutic agents, which may have the effect of further increasing the number of our competitors and/or providing advantages to certain competitors. See “Business—Competition” in Part I, Item 1 of our most recent Annual Report on Form 10-K for further discussion of our competitors, competitive products or programs, and the competitive conditions in these and other therapeutic areas.

If one or more of our competitors’ products or programs, including potential competitors not currently identified, are successful, the market for our products may be reduced or eliminated.

Compared to us, many of our competitors and potential competitors have substantially greater:

- capital resources;
- research and development resources, including personnel and technology;
- regulatory experience;
- preclinical study and clinical testing experience;
- manufacturing, marketing, and sales experience; and
- production facilities.

Any of these competitive factors could impede our funding efforts, render our products, product candidates, or technologies noncompetitive or eliminate or reduce demand for our products and product candidates.

Legal and Regulatory Risks

We are subject to various laws and regulations related to our products and product candidates, and if we or our partners do not comply with these laws and regulations, we could face substantial penalties.

Our and our partners’ activities related to approved products or, following their regulatory approval (if applicable), any of our product candidates under development, such as BCX10013, are subject to regulatory and law enforcement authorities in the United States (including the FDA, the Federal Trade Commission, the Department of Justice (“DOJ”), and state and local governments) and their foreign equivalents (including the EMA, MHLW, MHRA, and others).

We are responsible for reporting adverse drug experiences, have responsibility for certain post-approval studies, and may have responsibilities and costs related to a recall or withdrawal of our products from sale in the jurisdictions in which they are approved. We may also incur liability associated with product manufacturing contracted by us or in support of any of our partners. We are required to maintain records and provide data and reports to regulatory agencies related to our products (e.g. risk evaluation and mitigation strategies, track and trace requirements, and adverse events), and we may incur certain promotional regulatory and government pricing risks, all of which could have a material adverse impact on our operations and financial condition. Similar responsibilities would apply upon regulatory approval of any of our other product candidates currently under development.

In addition, we are subject to the federal physician sunshine act and certain similar physician payment and drug pricing transparency legislation in various states. We are also subject to various federal and state laws pertaining to healthcare “fraud and abuse,” including both federal and state anti-kickback and false claims laws. Outside of the United States, we may be subject to analogous foreign laws and regulations in the various jurisdictions in which we operate. These

laws and regulations apply to our and our partners' operations, sales and marketing practices, price reporting, and relationships with physicians and other customers and third-party payors. Although we seek to comply with these statutes, it is possible that our practices, or those of our partners, might be challenged under healthcare fraud and abuse, anti-kickback, false claims or similar laws. Violations of the physician sunshine act and similar legislation or the fraud and abuse laws may be punishable by civil or criminal sanctions, including fines and civil monetary penalties, and future exclusion from participation in government healthcare programs.

The principal investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and receive compensation in connection with such services. Under certain circumstances, we may be required to report some of these relationships to certain regulatory authorities, including the FDA and comparable foreign regulatory authorities. Consequently, the FDA or other regulatory authority may conclude that a financial relationship between us and a principal investigator creates a conflict of interest or otherwise affects interpretation of the study. In the event of a conflict of interest with respect to a study, the integrity of the data generated at the applicable clinical trial site may be questioned or the utility of the clinical trial itself may be jeopardized. This could result in a delay in approval, or rejection, of our marketing applications by the FDA or other regulatory authority, as the case may be, and may ultimately lead to the denial of marketing approval of one or more of our product candidates.

The FDA and foreign regulatory authorities may also impose post-approval commitments on us for approved products, which we may not complete successfully or on time for any number of reasons, including, but not limited to, lack of funds to complete the studies and insufficient interest by appropriate sites, investigators or study subjects. We are currently subject to certain post-approval commitments. If we fail to comply with post-approval legal and regulatory requirements, we could be subject to penalties, and our products could be subject to continual recordkeeping and reporting requirements, review and periodic inspections by the FDA and other regulatory bodies. Regulatory approval of a product may be subject to limitations on the indicated uses for which the product may be marketed or to the other restrictive conditions of approval that limit our ability to promote, sell or distribute a product. Furthermore, the approval of our products and any other future product candidates may be subject to requirements for costly post-approval testing and surveillance to monitor their safety or efficacy.

Advertising and promotion are subject to stringent FDA rules and oversight, and as an NDA holder, we may be held responsible for any advertising and promotion that is not in compliance with the rules and regulations. Applicable regulatory authorities, competitors, and other third parties may take the position that we are not in compliance with such regulations. In addition to medical education efforts, we may offer patient support services to assist patients receiving treatment with our commercially approved products which have increasingly become the focus of government investigation.

Adverse event information concerning approved products must be reviewed, and as an NDA holder, we are required to make expedited and periodic adverse event reports to the FDA and other regulatory authorities. In addition, the research, manufacturing, distribution, sale and promotion of products are potentially subject to regulation by various federal, state and local authorities in addition to the FDA, including the Centers for Medicare and Medicaid Services ("CMS"), other divisions of HHS, the DOJ and individual U.S. Attorney offices within the DOJ, state and local governments, and foreign equivalents of the foregoing. All of these activities are also potentially subject to healthcare false claims and fraud and abuse laws, as well as consumer protection and unfair competition laws.

If our operations with respect to our products that are subject to healthcare laws and regulations are found to be in violation of any of the healthcare fraud and abuse laws described above or in "Business—Government Regulation" in Part I, Item 1 of our most recent Annual Report on Form 10-K or any other governmental regulations that apply to us, we may be subject to penalties, including civil and criminal penalties, damages, fines and the curtailment or restructuring of our operations. Any penalties, damages, fines, curtailment or restructuring of our operations could adversely affect our ability to operate our business and our financial results. Although compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be entirely eliminated. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with all applicable fraud and abuse laws may be costly.

Our employees, consultants and partners may engage in misconduct or other improper activities, including non-compliance with regulatory standards and requirements, which could cause significant liability for us and harm our reputation.

We are subject to the risk of fraud or other misconduct by our employees, consultants and partners, including intentional or unintentional failures to comply with FDA regulations or similar regulations of comparable other regulatory authorities, provide accurate information to the FDA or comparable other regulatory authorities, comply with manufacturing standards we have established, comply with federal and state healthcare fraud and abuse laws and regulations and similar laws and regulations established and enforced by comparable other regulatory authorities, report financial information or data accurately or disclose unauthorized activities to us. Employee and consultant misconduct could also involve the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. It is not always possible to identify and deter employee and consultant misconduct, whether intentional, reckless, negligent, or unintentional, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws, standards or regulations. If any such actions are instituted against us and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business and results of operations, including the imposition of significant fines or other sanctions.

We and our partners may be subject to new legislation, regulatory proposals and healthcare payor initiatives that may increase our costs of compliance and adversely affect our or our partners' ability to market our products, develop our product candidates, obtain collaborators and raise capital.

We are subject to new legislation, regulatory, and healthcare payor initiatives, including the Patient Protection and Affordable Care Act ("PPACA"), which made extensive changes to the delivery of healthcare in the United States, as discussed in "Business—Government Regulation" in Part I, Item 1 of our most recent Annual Report on Form 10-K. The continuing efforts of the government, insurance companies, managed care organizations and other payors of healthcare services to contain or reduce costs of healthcare could result in decreased net revenues from our pharmaceutical products and decrease potential returns from our development efforts. In addition, pharmaceutical and device manufacturers are also required to report and disclose certain payments and transfers of value to, and investment interests held by, physicians and their immediate family members during the preceding calendar year. Failure to submit required information may result in civil monetary penalties for payments, transfers of value, or ownership or investment interests not reported in an annual submission. Compliance with the PPACA and state laws with similar provisions is difficult and time consuming, and companies that do not comply with these state laws face civil penalties. Because of the breadth of these laws and the narrowness of the applicable safe harbors, it is possible that some of our business activities could be subject to challenge under one or more of such laws. Such a challenge could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

In addition, there have been a number of other legislative and regulatory proposals aimed at changing the pharmaceutical industry. For example, legislation has been enacted in certain states and at a federal level that requires development of an electronic pedigree to track and trace each prescription drug at the saleable unit level through the distribution system. Compliance with these electronic pedigree requirements may increase our operational expenses and impose significant administrative burdens. In addition, our compliance may be deemed insufficient and we could face a material adverse effect on our business, financial condition, results of operations and growth prospects. As a result of these and other new proposals, we may determine to change our current manner of operation, provide additional benefits or change our contract arrangements, any of which could have a material adverse effect on our business, financial condition and results of operations.

Adequate coverage and reimbursement in the United States and other markets is critical to the commercial success of our approved products. Recently in the United States, there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products. For example, the Inflation Reduction Act of 2022 ("IRA") implements a number of drug pricing measures intended to lower the cost of prescription drugs and related healthcare reforms, including limits on price increases and subjecting an escalating number of drugs to annual price negotiations with the CMS. We cannot be sure whether additional legislation or rulemaking related to the IRA will be issued or enacted, or what impact, if any, such changes will have on the profitability of our products or any of our product candidates, if approved for commercial use, in the future. The effect of the IRA on our business and the healthcare industry in general is not yet known. In addition, regional healthcare authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products and which suppliers will be included in their prescription drug and other healthcare programs. Third-party payors are increasingly challenging the prices charged for medical products and

services and, in some cases, imposing restrictions on the coverage of particular drugs. Many third-party payors negotiate the price of medical services and products and develop formularies which establish pricing and reimbursement levels. Exclusion of a product from a formulary can lead to its sharply reduced usage in the third-party payor's patient population. The process for obtaining coverage can be lengthy and costly, and we expect that it could take several months before a particular payor initially reviews a product and makes a decision with respect to coverage. For example, third-party payors may require cost-benefit analysis data from us in order to demonstrate the cost-effectiveness of our products or any other product we might bring to market. For any individual third-party payor, we may not be able to provide data sufficient to gain reimbursement on a similar or preferred basis to competitive products, or at all, which may have a material adverse effect on our business, financial condition and results of operations.

We are subject to data security and privacy risks, and our actual or perceived failure to comply with regulations and other legal obligations related to privacy and data protection could harm our business.

We are subject to legal obligations related to privacy and data protection. Compliance with U.S. and international data protection laws and regulations could require us to take on more onerous obligations in our contracts, restrict our ability to collect, use, and disclose data, or in some cases, impact our ability to operate in certain jurisdictions. For example, we may be subject to the California Consumer Privacy Act, which gives California residents expanded rights to access and require deletion of their personal information, opt out of certain personal information sharing, and receive detailed information about how their personal information is used. We also may be subject to the General Data Protection Regulation ("GDPR") in the European Economic Area ("EEA") and similar legislation in the United Kingdom and Switzerland. See "Business—Government Regulation—Data Privacy and Security Laws" in Part I, Item 1 of our most recent Annual Report on Form 10-K and "Risks Relating to Our Business—Risks Relating to International Operations—Our actual or perceived failure to comply with European governmental laws and regulations and other legal obligations related to privacy, data protection and information security could harm our business" in this section for additional discussion of privacy laws and regulations. Failure to comply with these laws and regulations could result in government enforcement actions, private litigation, or harm to our reputation and our business.

If, because of our use of hazardous materials, we violate any environmental controls or regulations that apply to such materials, we may incur substantial costs and expenses in our remediation efforts.

Our research and development involves the controlled use of hazardous materials, chemicals and various radioactive compounds. We are subject to federal, state and local laws and regulations governing the use, storage, handling and disposal of these materials and some waste products. Accidental contamination or injury from these materials could occur. In the event of an accident, we could be liable for any damages that result, and any liabilities could exceed our resources. Compliance with environmental laws and regulations or a violation of such environmental laws and regulations could require us to incur substantial unexpected costs, which would materially and adversely affect our results of operations.

Intellectual Property Risks

If we fail to adequately protect or enforce our intellectual property rights, the value of those rights would diminish, and if we fail to secure the rights to patents of others, it could adversely affect our business.

Our success will depend in part on our ability and the abilities of our partners to obtain, protect and enforce viable intellectual property rights including, but not limited to, trade name, trademark and patent protection for our Company and its products, methods, processes and other technologies we may license or develop, to preserve our trade secrets, and to operate without infringing the proprietary rights of third parties both domestically and abroad. The patent position of biotechnology and pharmaceutical companies is generally highly uncertain, involves complex legal and factual questions and has recently been the subject of much litigation. Neither the United States Patent and Trademark Office ("USPTO"), the Patent Cooperation Treaty offices, nor the courts of the United States and other jurisdictions have consistent policies nor predictable rulings regarding the breadth of claims allowed or the degree of protection afforded under many biotechnology and pharmaceutical patents. Further, we may not have worldwide patent protection for all of our product candidates and our intellectual property rights may not be legally protected or enforceable in all countries throughout the world. In some jurisdictions, some of our product candidates in certain programs, including our HAE program, may have short or no composition of matter patent life and we may therefore rely on orphan drug exclusivity or data exclusivity. There can be no assurance that we will obtain orphan drug exclusivity or data exclusivity in every jurisdiction. Further, in some jurisdictions, we may rely on formulation patents or method of use patents. Both the ability to achieve issuance and the enforcement of formulation and method of use patents can be highly uncertain and can vary from jurisdiction to jurisdiction, and such patents may therefore not adequately prevent competitors and potential infringers in some

jurisdictions. The validity, scope, enforceability and commercial value of the rights protected by such patents, therefore, is highly uncertain.

We also rely on trade secrets to protect technology in cases when we believe patent protection is not appropriate or obtainable. However, trade secrets are difficult to protect. If we cannot maintain the confidentiality of our technology and other confidential information in connection with our collaborators and advisors, our ability to receive patent protection or protect our proprietary information may be imperiled.

We may be involved in legal proceedings to protect or enforce our patents, the patents of our partners or our other intellectual property rights, which could be expensive, time consuming and unsuccessful.

Competitors may infringe or otherwise violate our patents, the patents of our licensors or our other intellectual property rights. To counter infringement or unauthorized use, we may be required to file legal claims, which can be expensive, time-consuming, and unsuccessful. An adverse result in any legal proceeding could put one or more of our patents at risk. Our success depends in part on avoiding the infringement of other parties' patents and other intellectual property rights as well as avoiding the breach of any licenses relating to our technologies and products. In the United States, patent applications filed in recent years are confidential for 18 months, while older applications are not published until the patent issues. As a result, avoiding patent infringement may be difficult and we may inadvertently infringe third-party patents or proprietary rights. These third parties could bring claims against us, our partners or our licensors that even if resolved in our favor, could cause us to incur substantial expenses and, if resolved against us, could additionally cause us to pay substantial damages. Further, if a patent infringement suit were brought against us, our partners or our licensors, we or they could be forced to stop or delay research, development, manufacturing or sales of any infringing product in the country or countries covered by the patent we infringe, unless we can obtain a license from the patent holder. Such a license may not be available on acceptable terms, or at all, particularly if the third party is developing or marketing a product competitive with the infringing product. Even if we, our partners or our licensors were able to obtain a license, the rights may be nonexclusive, which would give our competitors access to the same intellectual property.

If we or our partners are unable or fail to adequately initiate, protect, defend or enforce our intellectual property rights in any area of commercial interest or in any part of the world where we wish to seek regulatory approval for our products, methods, processes and other technologies, the value of our products and product candidates to produce revenue would diminish. Additionally, if our products, methods, processes, and other technologies or our commercial use of such products, processes, and other technologies, including, but not limited to, any trade name, trademark or commercial strategy infringe the proprietary rights of other parties, we could incur substantial costs. The USPTO and the patent offices of other jurisdictions have issued to us a number of patents for our various inventions, and we have in-licensed several patents from various institutions. We have filed additional patent applications and provisional patent applications with the USPTO. We have filed a number of corresponding foreign patent applications and intend to file additional foreign and U.S. patent applications, as appropriate. We have also filed certain trademark and trade name applications worldwide. We cannot assure you as to:

- the degree and range of protection any patents will afford against competitors with similar products;
- if and when patents will issue;
- if patents do issue, we cannot be sure that we will be able to adequately defend such patents and whether or not we will be able to adequately enforce such patents; or
- whether or not others will obtain patents claiming aspects similar to those covered by our patent applications.

If the USPTO or other foreign patent office upholds patents issued to others or if the USPTO grants patent applications filed by others, we may have to:

- obtain licenses or redesign our products or processes to avoid infringement;
- stop using the subject matter claimed in those patents; or
- pay damages.

We may initiate, or others may bring against us, litigation or administrative proceedings related to intellectual property rights, including proceedings before the USPTO or other foreign patent office. Any judgment adverse to us in any litigation or other proceeding arising in connection with a patent or patent application could materially and adversely affect our business, financial condition and results of operations. In addition, the costs of any litigation or administrative proceeding may be substantial whether or not we are successful.

Our success is also dependent upon the skills, knowledge and experience, none of which is patentable, of our scientific and technical personnel. To help protect our rights, we require all employees, consultants, advisors and partners to enter into confidentiality agreements that prohibit the disclosure of confidential information to anyone outside of our Company and require disclosure and assignment to us of their ideas, developments, discoveries and inventions. These agreements may not provide adequate protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use or disclosure or the lawful development by others of such information, and if any of our proprietary information is disclosed, our business will suffer because our revenues depend upon our ability to license or commercialize our products and product candidates and any such events would significantly impair the value of such products and product candidates.

Product Liability Risks

We face an inherent risk of liability in the event that the use or misuse of our products or product candidates results in personal injury or death, and our product liability insurance coverage may be insufficient.

If the use or misuse of any products we sell, or a partner sells, harms people, we may be subject to costly and damaging product liability claims brought against us by consumers, healthcare providers, pharmaceutical companies, third-party payors or others. The use of our product candidates in clinical trials, including post-marketing clinical studies, could also expose us to product liability claims. We cannot predict all of the possible harms or side effects that may result from the use of our products or the testing of product candidates, and therefore, the amount of insurance coverage we currently have may not be adequate to cover all liabilities or defense costs we might incur. A product liability claim or series of claims brought against us could give rise to a substantial liability that could exceed our resources. Even if claims are not successful, the costs of defending such claims and potential adverse publicity could be harmful to our business.

We face an inherent risk of product liability exposure related to the testing of our product candidates in human clinical trials and face even greater risks upon commercialization by us of our products or product candidates. We have product liability insurance covering our clinical trials. Clinical trial and product liability insurance is becoming increasingly expensive. As a result, we may be unable to obtain sufficient insurance or increase our existing coverage at a reasonable cost to protect us against losses that could have a material adverse effect on our business. An individual may bring a product liability claim against us if one of our products or product candidates causes, or is claimed to have caused, an injury or is found to be unsuitable for consumer use. Any product liability claim brought against us, with or without merit, could result in:

- liabilities that substantially exceed our product liability insurance, which we would then be required to pay from other sources, if available;
- an increase of our product liability insurance rates or the inability to maintain insurance coverage in the future on acceptable terms, or at all;
- withdrawal of clinical trial volunteers or patients;
- damage to our reputation and the reputation of our products, resulting in lower sales;
- regulatory investigations that could require costly recalls or product modifications;
- litigation costs; and
- the diversion of management’s attention from managing our business.

Risks Relating to Contractual Arrangements

We face risks related to our government-funded programs and are subject to various U.S. Government contract requirements, which may create a disadvantage and additional risks to us.

We have contracts with BARDA/HHS and NIAID/HHS for the development of galidesivir as a treatment for diseases caused by RNA pathogens, including Marburg virus disease, Yellow Fever and Ebola virus disease. In contracting with these government agencies, we are subject to various U.S. Government contract requirements, including general clauses for a cost-reimbursement research and development contract, which may limit our reimbursement. While all government funding for galidesivir expired in 2022, we still face risks related to our U.S. Government contracts.

U.S. Government contracts typically contain a number of extraordinary provisions that would not typically be found in commercial contracts and which may create a disadvantage and additional risks to us as compared to competitors that do not rely on U.S. Government contracts. These risks include the ability of the U.S. Government to unilaterally:

- terminate or reduce the scope of our contract with or without cause;
- interpret relevant regulations (federal acquisition regulation clauses);

- require performance under circumstances which may not be favorable to us;
- require an in-process review where the U.S. Government will review the project and its options under the contract;
- control the timing and amount of funding, which impacts the development progress of our programs; and
- audit and object to our contract-related costs and fees, including allocated indirect costs.

Upon termination or expiration of a contract, the U.S. Government may dispute wind-down and termination costs and may question prior expenses under the contract and deny payment of those expenses. Should we choose to challenge the U.S. Government for denying certain payments under a contract, such a challenge could subject us to substantial additional expenses which we may or may not recover.

In addition, as a U.S. Government contractor, we are required to comply with applicable laws, regulations and standards relating to our accounting practices and are subject to periodic audits and reviews, including a final financial audit. As part of any such audit or review, the U.S. Government may review the adequacy of, and our compliance with, our internal control systems and policies, including those relating to our purchasing, property, estimating, compensation and management information systems. Audits under the BARDA/HHS and NIAID/HHS galidesivir contracts may occur at the election of the U.S. Government and have been concluded through fiscal 2019; all subsequent fiscal years are still open and auditable. Based on the results of its audits, the U.S. Government may adjust our contract-related costs and fees, including allocated indirect costs. This adjustment could impact the amount of revenues reported on a historic basis. In addition, in the event BARDA/HHS or NIAID/HHS determines that certain costs and fees were unallowable or determines that the allocated indirect cost rate was higher than the actual indirect cost rate, BARDA/HHS or NIAID/HHS would be entitled to recoup any overpayment from us as a result. In addition, if an audit or review uncovers any improper or illegal activity, we may be subject to civil and criminal penalties and administrative sanctions, including forfeiture of profits, suspension of payments, fines and suspension or prohibition from doing business with the U.S. Government. We could also suffer serious harm to our reputation if allegations of impropriety were made against us. In addition, under U.S. Government purchasing regulations, some of our costs may not be reimbursable or allowed under our contracts. Further, as a U.S. Government contractor, we are subject to an increased risk of investigations, criminal prosecution, civil fraud, whistleblower lawsuits and other legal actions and liabilities as compared to private sector commercial companies.

There are risks related to the potential government use or sale of our antivirals.

Government use or sale, in emergency situations or otherwise, of our antivirals (including peramivir for the treatment of influenza) may result in risks to us or our collaborative partners. There can be no assurance that government use of our antivirals (whether as indicated or outside of their current indications) will prove to be generally safe, well-tolerated and effective. Any government sale or use (on an emergency basis or otherwise) of our antivirals in any country may create liabilities for us or our partners.

There can be no assurance that we or our manufacturers will be able to fully meet the demand for our antivirals with respect to any future arrangements. Further, we may not receive a favorable purchase price for future orders, if any, of our antivirals by governmental entities. Our competitors may develop products that could compete with or replace any antivirals selected for government sale or use. We may face competition in markets where we have no existing intellectual property protection or are unable to successfully enforce our intellectual property rights.

There can be no assurance that the non-U.S. partnerships that we have entered into for peramivir will result in any order for peramivir in those countries or that peramivir will be approved for any use or will achieve market approval in additional countries. In the event that any emergency use or market approval is granted in any country, there can be no assurance that any government order or commercialization of the applicable product or product candidate in such countries will be substantial or will be profitable to us.

If we fail to reach milestones or to make annual minimum payments or otherwise breach our obligations under our license agreements, our licensors may terminate our agreements with them and/or seek additional remedies.

If we are unable or fail to meet payment obligations, performance milestones relating to the timing of regulatory filings, product supply obligations, post-approval commitments, or development and commercial diligence obligations; are unable or fail to make milestone payments or material data use payments in accordance with applicable provisions; or fail to pay the minimum annual payments under any of our in-licenses relating to our products or product candidates, our licensors may terminate the applicable license and/or seek other available remedies. As a result, our development of the respective product candidate or commercialization of the product would cease.

Because continuing events of default exist under the PhaRMA Notes, the holders of the PhaRMA Notes may be able to foreclose on the collateral securing the PhaRMA Notes and our equity interest in Royalty Sub. As a result, we may not realize the benefit of future royalty payments, if any, that might otherwise accrue to us following repayment of the PhaRMA Notes and we could otherwise be adversely affected.

In March 2011, JPR Royalty Sub LLC, our wholly-owned subsidiary ("Royalty Sub"), issued $30.0 million in aggregate principal amount of PhaRMA Senior Secured 14.0% Notes due on December 1, 2020 (the "PhaRMA Notes"). The PhaRMA Notes are secured principally by (i) certain royalty and milestone payments under our agreement with Shionogi (the "Shionogi Agreement"), pursuant to which Shionogi licensed from us the rights to market peramivir in Japan and Taiwan and (ii) the pledge by us of our equity interest in Royalty Sub. Payments, if any, from Shionogi to us on non-governmental sales under the Shionogi Agreement will generally not be available to us for other purposes unless and until Royalty Sub has repaid in full its obligations under the PhaRMA Notes. Accordingly, these funds have been and will continue to be required to be dedicated to Royalty Sub's debt service and not available to us for product development or other purposes. Since September 1, 2014, payments from Shionogi have been insufficient for Royalty Sub to service its obligations under the PhaRMA Notes, resulting in a continuing event of default with respect to the PhaRMA Notes since that time. In addition, the PhaRMA Notes had a final legal maturity date of December 1, 2020, at which time the outstanding principal amount of the PhaRMA Notes of $30.0 million, together with accrued and unpaid interest of $20.6 million, was due in full. The failure by Royalty Sub to repay these amounts at the maturity date constituted an additional event of default under the PhaRMA Notes. As Royalty Sub has been unable to service its obligations under the PhaRMA Notes and continuing events of default exist under the PhaRMA Notes, the holders of the PhaRMA Notes may be able to foreclose on the collateral securing the PhaRMA Notes and our equity interest in Royalty Sub and may exercise other remedies available to them under the indenture or other documents related to the PhaRMA Notes. In such event, we may not realize the benefit of future royalty payments, if any, that might otherwise accrue to us following repayment of the PhaRMA Notes, we may incur legal costs, and we might otherwise be adversely affected.

We cannot predict whether holders of PhaRMA Notes will seek to pursue any remedies as a result of the continuing events of default with respect to the PhaRMA Notes. The PhaRMA Notes are the obligation of Royalty Sub. Due to the non-recourse nature of the PhaRMA Notes, in the event of any potential foreclosure, we believe the primary impact to us would be the loss of future royalty payments, if any, from Shionogi and the legal costs associated with retiring the PhaRMA Notes. As a result, we do not currently expect the continuing events of default on the PhaRMA Notes to have a significant impact on our future results of operations or cash flows. However, we cannot assure you that this will be the case or that we will not otherwise be adversely affected as a result of the continuing events of default under the PhaRMA Notes or the failure by Royalty Sub to repay the PhaRMA Notes at maturity.

We wrote off the balance due under the PhaRMA Notes to other income as a debt extinguishment as of December 31, 2021. See "Note 8—Royalty Monetizations—RAPIACTA—Non-Recourse Notes Payable−Debt Extinguishment" in the Notes to Consolidated Financial Statements in Part II, Item 8 of our most recent Annual Report on Form 10-K for additional information about the write-off.

We have incurred significant indebtedness, which could adversely affect our business. Additionally, the Pharmakon Loan Agreement contains conditions and restrictions that limit our flexibility in operating our business. We may be required to make a prepayment or repay our outstanding indebtedness earlier than we expect if a prepayment event or an event of default occurs, including a material adverse change with respect to us, which could have a material adverse effect on our business.

On April 17, 2023, we entered into the $450.0 million Pharmakon Loan Agreement and closed on an initial term loan thereunder in the principal amount of $300.0 million. Under the new Pharmakon Loan Agreement, we will be required to pay to Pharmakon, for the account of the lenders, a prepayment premium or a make-whole premium, as applicable, plus certain fees or expenses set forth in the Pharmakon Loan Agreement in the event that we prepay or repay, or are required to prepay or repay, voluntarily or pursuant to a mandatory prepayment obligation under the Pharmakon Loan Agreement (e.g., upon a change of control of the Company and specified other events, subject to certain exceptions), all of the then-outstanding term loans under the Pharmakon Loan Agreement, in each case, subject to certain exceptions set forth in the Pharmakon Loan Agreement.

Our indebtedness could have important consequences to our stockholders. For example, it:

- increases our vulnerability to adverse general economic or industry conditions;
- limits our flexibility in planning for, or reacting to, changes in our business or the industry in which we operate;

- makes us more vulnerable to increases in interest rates, as borrowings under the Pharmakon Loan Agreement accrue interest at variable, uncapped rates, such that increases in interest rates will increase the associated interest payments that we are required to make on outstanding borrowings;
- requires us to dedicate a portion of our cash flow from operations to interest payments, limiting the availability of cash for other purposes;
- limits our ability to obtain additional financing or refinancing in the future for working capital or other purposes; and
- places us at a competitive disadvantage compared to our competitors that have less indebtedness.

Furthermore, the Pharmakon Loan Agreement contains various covenants that limit our ability to engage in specified types of transactions. Subject to certain exceptions, these covenants limit our ability to, among other things, dispose of assets; engage in certain mergers, acquisitions, and similar transactions; incur additional indebtedness; grant liens; make investments; pay dividends or make distributions or certain other restricted payments in respect of equity; prepay other indebtedness; enter into restrictive agreements; undertake fundamental changes; or amend certain material contracts.

The covenants contained in the Pharmakon Loan Agreement could cause us to be unable to pursue business opportunities that we or our stockholders may consider beneficial without the lenders' permission or without repaying all outstanding obligations under the Pharmakon Loan Agreement.

A breach of any of these covenants could result in an event of default under the Pharmakon Loan Agreement. An event of default will also occur if, among other things, we fail to pay amounts due under the Pharmakon Loan Agreement, we fail to repay certain other indebtedness having an aggregate principal amount in excess of a threshold amount, a material adverse change in our business, assets, properties, liabilities, or condition occurs, or a material impairment of our ability to perform our obligations under the Pharmakon Loan Agreement occurs, certain negative regulatory events occur, including without limitation certain withdrawal events with respect to ORLADEYO, or we fail to make required payments under our Royalty Purchase Agreements. In the case of a continuing event of default under the Pharmakon Loan Agreement, the lenders under the Pharmakon Loan Agreement could elect to declare all amounts outstanding to be immediately due and payable, proceed against the collateral in which we granted to the lenders a security interest, or otherwise exercise the rights of a secured creditor. Amounts outstanding under the Pharmakon Loan Agreement are secured by a security interest in, subject to certain exceptions, substantially all of our assets. Because substantially all of our assets are pledged to secure the Pharmakon Loan Agreement obligations, our ability to incur additional secured indebtedness or to sell or dispose of assets to raise capital may be impaired, which could have an adverse effect on our financial flexibility.

Risks Relating to International Operations

International expansion of our business exposes us to business, legal, regulatory, political, operational, financial, and economic risks.

Our business strategy includes international expansion, including the commercialization of products outside of the United States. In addition, we currently conduct clinical studies and regulatory activities and have hired, and expect to continue hiring, employees outside of the United States. Doing business internationally involves a number of risks, including, but not limited to:

- multiple, conflicting, and changing laws and regulations such as privacy and data regulations, transparency regulations, tax laws, export and import restrictions, employment laws, regulatory requirements, and other governmental approvals, permits, and licenses;
- introduction of new health authority requirements and/or changes in health authority expectations;
- failure by us or our partners to obtain and maintain regulatory approvals for the use of our products in various countries;
- complexities and difficulties in obtaining and maintaining protection for, and enforcing, our intellectual property;
- difficulties in staffing and managing foreign operations;
- complexities associated with managing multiple payor reimbursement regimes, government payors, or patient self-pay systems;
- limits on our ability to penetrate international markets;
- financial risks, such as longer payment cycles, difficulty collecting accounts receivable, the impact of local and regional financial crises on demand and payment for our products, and exposure to foreign currency exchange rate fluctuations, which have been increasingly prevalent alongside a fluctuating U.S. dollar;

- natural disasters and political and economic instability, including wars (e.g., the conflict in Ukraine), terrorism, political unrest, results of certain elections and votes, actual or threatened public health emergencies and outbreak of disease (e.g., the ongoing COVID-19 pandemic), boycotts, adoption or expansion of government trade restrictions, and other business restrictions;
- certain expenses including, among others, expenses for travel, translation, and insurance;
- regulatory and compliance risks that relate to maintaining accurate information and control over commercial operations and activities that may fall within the purview of the U.S. Foreign Corrupt Practices Act, including its books and records provisions or anti-bribery provisions, or the U.K. Bribery Act and similar foreign laws and regulations; and
- regulatory and compliance risks relating to doing business with any entity that is subject to sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

Any of these factors could significantly harm our international expansion of operations and adversely affect our business and results of operations.

Additionally, in some countries, such as Japan and the countries of the European Union, the pricing of prescription pharmaceuticals is subject to governmental control and access. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in some countries, we or our partners may be required to conduct a clinical trial that compares the cost-effectiveness of our product to other available therapies. If reimbursement of our products is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, our business could be materially harmed.

Foreign currency exchange rate fluctuations could have an adverse impact on our results of operations, financial position, and cash flows.

We conduct operations in many countries outside of the United States involving transactions in a variety of currencies other than the U.S. dollar. These transactions include, without limitation, commercial sales, contract manufacturing, and clinical trial activities. Although most of our revenues and expenses are denominated in U.S. dollars, our commercial sales in Europe are primarily denominated in Euros and British Pounds. We also have foreign currency exposure to fluctuations in other foreign currencies, such as the Swiss Franc, Danish Krone, Swedish Krona, the Canadian Dollar, and Japanese yen. Changes in the value of these currencies relative to the U.S. dollar may impact our consolidated operating results, including our revenues and expenses, causing fluctuations in our operating results from period to period and/or resulting in foreign currency transaction losses that adversely impact our results of operations, financial position, and cash flows. As we continue to expand our operations internationally, our exposure to foreign currency transaction gains or losses may become more significant. See “Quantitative and Qualitative Disclosures about Market Risk—Foreign Currency Risk” in Part I, Item 3 of this report for additional information about our foreign currency risk.

Our actual or perceived failure to comply with European governmental laws and regulations and other legal obligations related to privacy, data protection and information security could harm our business.

EU member states, the United Kingdom, Switzerland and other countries have adopted data protection laws and regulations, which impose significant compliance obligations. These laws include the GDPR and similar national legislation, the EU Clinical Trials Regulation, and the e-Privacy Directive (2002/58/EC), and are discussed in more detail in “Business—Government Regulation—Data Privacy and Security Laws” in Part I, Item 1 of our most recent Annual Report on Form 10-K. Failure to comply with the requirements of the GDPR or related national data protection laws, which may deviate from the GDPR, may result in significant fines of up to 4% of global revenues, or €20.0 million, whichever is greater, and in addition to such fines, our failure to comply with the requirements of GDPR or similar national legislation may subject us to litigation and/or adverse publicity, which could have material adverse effects on our reputation and business. As a result of the implementation of the GDPR, we are required to put in place additional mechanisms to ensure compliance with the data protection rules. For example, the GDPR requires us to make more detailed disclosures to data subjects, requires disclosure of the legal basis on which we can process personal data, makes it harder for us to obtain valid consent for processing, requires the appointment of a data protection officer where sensitive personal data (i.e., health data) is processed on a large scale, introduces mandatory data breach notification throughout the European Union, imposes additional obligations on us when we are contracting with service providers and requires us to adopt appropriate privacy governance including policies, procedures, training and data audit.

We depend on a number of third parties in relation to the provision of our services, a number of which process personal data of EU individuals on our behalf. With each such provider, we are required to enter into contractual arrangements under which they are contractually obligated to only process personal data according to our instructions, and conduct diligence to ensure that they have sufficient technical and organizational security measures in place. Compliance

with the requirements imposed by the GDPR and other such laws can be time-consuming, expensive and difficult, and may increase our cost of doing business or require us to change our business practices, and despite our efforts we may not be successful in achieving compliance if our personnel, collaborators, partners or vendors do not comply with applicable data protection obligations.

We are also subject to evolving European privacy laws on electronic marketing and cookies. The European Union is in the process of replacing the e-Privacy Directive (2002/58/EC) with a new set of rules taking the form of a regulation that will be directly implemented in the laws of each EU member state. While this e-Privacy Regulation was originally intended to be adopted on May 25, 2018, it is still going through the European legislative process and the timing of its adoption remains unclear.

The United Kingdom's decision to withdraw from the European Union could result in increased regulatory and legal complexity, which may make it more difficult for us to do business in Europe and impose additional challenges in securing regulatory approval of our product candidates in Europe.

The United Kingdom's exit from the European Union, or Brexit, has caused political and economic uncertainty, including in the regulatory framework applicable to our operations and product candidates, and this uncertainty may persist for years. Brexit could, among other outcomes, disrupt the free movement of goods, services and people between the United Kingdom and the European Union, and result in increased legal and regulatory complexities, as well as potential higher costs of conducting business in Europe. The long-term effects of Brexit will depend in part on how the current and future trade agreements between the United Kingdom and the European Union take effect in practice. Changes in U.K. or EU regulations may cause disruption or delays in granting clinical trial authorization or opinions for marketing authorization, disruption of importation and export of active substance and other components of new drug formulations, and disruption of the supply chain for clinical trial product and final authorized formulations.

The cumulative effects of the disruption to the regulatory framework may add considerably to the development lead time to marketing authorization and commercialization of products in the European Union and/or the United Kingdom. It is possible that there will be increased regulatory complexities, which can disrupt the timing of our clinical trials and regulatory approvals. In addition, changes in, and legal uncertainty with regard to, national and international laws and regulations may present difficulties for our clinical and regulatory strategy. Any delay in obtaining, or an inability to obtain, any marketing approvals, as a result of Brexit or otherwise, would prevent us from commercializing our product candidates in the United Kingdom and/or the European Union and restrict our ability to generate revenues and achieve and sustain profitability.

In addition, as a result of Brexit, other European countries may seek to conduct referenda with respect to their continuing membership with the European Union. Given these possibilities and others we may not anticipate, as well as the absence of comparable precedent, it is unclear what financial, regulatory and legal implications the withdrawal of the United Kingdom from the European Union will have and how such withdrawal will affect us, and the full extent to which our business could be adversely affected.

Risks Relating to Technology

If our facilities, or the facilities of our third-party vendors, incur damage or power is lost for a significant length of time, our business will suffer.

We and our third-party vendors store commercial product, clinical and stability samples at our facilities that could be damaged if the facilities incur physical damage or in the event of an extended power failure. We have backup power systems in addition to backup generators to maintain power to all critical functions, but any loss of these products or samples could result in significant delays in our commercialization or drug development process.

In addition, we store most of our preclinical and clinical data at our facilities. Duplicate copies of most critical data are secured off-site. Any significant degradation or failure of our computer systems could cause us to inaccurately calculate or lose our data. Loss of data could result in significant delays in our drug development process, and any system failure could harm our business and operations.

A significant disruption in our or our third-party vendors' information technology systems or a cybersecurity breach could adversely affect our business.

We are increasingly dependent on information technology systems to operate our business. In addition, the FDA and comparable foreign regulatory authorities regulate, among other things, the record keeping and storage of data pertaining to

potential pharmaceutical products. We currently store most of our preclinical research data, our clinical data and our manufacturing data at our facilities. While we do store duplicate copies of most of our clinical data offsite and a significant portion of our data is included in regular backups of our systems, we could lose important data if our facilities incur damage, or if our vendor data systems fail, suffer damage or are destroyed. In addition, we have outsourced significant parts of our information technology and business infrastructure to third-party providers, and we currently use these providers to perform business critical information technology and business services for us. We are therefore vulnerable to cybersecurity attacks and incidents on the associated networks and systems, whether they are managed by us directly or by the third parties with whom we contract, and we have experienced, and may in the future experience, such cybersecurity threats and attacks.

Like other companies in our industry, our networks and infrastructure may be vulnerable to cyber-attacks or intrusions, including by computer hackers, foreign governments, foreign companies, or competitors, or may be breached by employee error, malfeasance or other disruption. These risks have increased as we have experienced significant growth in the number of our employees and the scope of our operations and as virtual and remote working have become more widely used, and sensitive data is accessed by employees working in less secure, home-based environments. A breakdown, invasion, corruption, destruction, or interruption of critical information technology systems could negatively impact operations. If our systems are damaged, fail to function properly or otherwise become unavailable, we may incur substantial costs to repair or replace them, and we may experience loss of critical data and interruptions or delays in our ability to perform critical functions, which could adversely affect our business, financial condition or results of operations. Any compromise of our data security could also result in a violation of applicable privacy and other laws, significant legal and financial exposure, damage to our reputation, loss or misuse of the information and a loss of confidence in our data security measures, which could harm our business. There can be no assurance that our efforts to protect our data and information technology systems will prevent breakdowns or breaches in our systems, or those of third parties with which we do business, and any such events could adversely affect our business.

Risks Relating to Investing in Our Common Stock

Our existing principal stockholders hold a substantial amount of our common stock and may be able to influence significant corporate decisions, which may conflict with the interest of other stockholders.

Some of our stockholders own greater than 5% of our outstanding common stock. Our top ten stockholders own approximately 50% of our common stock and can individually, and as a group, influence our operations based upon their concentrated ownership and may also be able to influence the outcome of matters requiring approval of the stockholders, including the election of our directors and other corporate actions.

Our stock price has been, and is likely to continue to be, highly volatile, which could cause the value of an investment in our common stock to decline significantly.

The market prices for securities of biotechnology companies in general have been highly volatile and may continue to be highly volatile in the future. Moreover, our stock price has fluctuated frequently, and these fluctuations are often not related to our financial results. For the twelve months ended June 30, 2023, the 52-week range of the market price of our stock was from $6.87 to $15.43 per share. The following factors, in addition to other risk factors described in this section, may have, and in some cases have had, a significant impact on the market price of our common stock:

- announcements of technological innovations or new products by us or our competitors;
- developments or disputes concerning patents or proprietary rights;
- additional dilution through sales of our common stock or other derivative securities;
- status of new or existing licensing or collaborative agreements and government contracts;
- announcements relating to the status of our programs;
- us or our partners achieving or failing to achieve development milestones;
- publicity regarding actual or potential medical results relating to products under development by us or our competitors;
- publicity regarding certain public health concerns for which we are or may be developing treatments;
- regulatory developments in both the United States and foreign countries;
- public concern as to the safety of pharmaceutical products;
- actual or anticipated fluctuations in our operating results;
- changes in financial estimates or recommendations by securities analysts and the comparison of such estimates to our actual results;
- changes in our public guidance;

- changes in the structure of healthcare payment systems, including developments in price control legislation;
- announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures, capital commitments or other monetization transactions;
- additions or departures of key personnel or members of our board of directors;
- purchases or sales of substantial amounts of our stock by existing stockholders, including officers or directors;
- economic and other external factors or other disasters or crises; and
- period-to-period fluctuations in our financial results.

This volatility could cause the value of an investment in our common stock to decline significantly. In addition, companies that have experienced volatility in the market price of their stock in the past have been subject to securities class action litigation. Securities litigation, and any other type of litigation, brought against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business and adversely affect our results of operations.

Future sales and issuances of securities may dilute the ownership interests of our current stockholders and cause our stock price to decline.

Future sales of our common stock by us or our current stockholders into the public market could cause the market price of our stock to fall. As of July 28, 2023, there were 189,493,735 shares of our common stock outstanding. We may from time to time issue securities in relation to a license arrangement, collaboration, merger or acquisition. We may also sell, for our own account, shares of common stock or other equity securities, from time to time at prices and on terms to be determined at the time of sale.

As of July 28, 2023, there were 33,939,390 stock options and restricted stock units outstanding and 11,587,102 shares available for issuance under our Amended and Restated Stock Incentive Plan, 6,135,679 stock options and restricted stock units outstanding and 363,055 shares available for issuance under our Amended and Restated Inducement Equity Incentive Plan, and 5,616,817 shares available for issuance under our Amended and Restated Employee Stock Purchase Plan. In addition, we could also make equity grants outside of our Amended and Restated Stock Incentive Plan or Amended and Restated Inducement Equity Incentive Plan. The shares underlying existing stock options, restricted stock units and possible future stock options, stock appreciation rights and stock awards have been registered pursuant to registration statements on Form S-8.

If some or all of such shares are sold or otherwise issued into the public market over a short period of time, our current stockholders' ownership interests may be diluted and the value of all publicly traded shares is likely to decline, as the market may not be able to absorb those shares at then-current market prices. Additionally, such sales and issuances may make it more difficult for us to sell equity securities or equity-related securities in the future at a time and price that our management deems acceptable, or at all.

In March 2017, we entered into a Registration Rights Agreement with entities affiliated with Baker Bros. Advisors LP (the "Baker Entities") to provide that, if requested, we will register the shares of our common stock beneficially owned by the Baker Entities for resale under the Securities Act of 1933, as amended (the "Securities Act"). Our registration obligations pursuant to the Registration Rights Agreement cover all shares then held or thereafter acquired by the Baker Entities, for up to ten years, and include our obligation to facilitate certain underwritten public offerings of our common stock by the Baker Entities in the future. On May 10, 2017, we filed a registration statement on Form S-3 with respect to 11,710,951 shares of common stock held by the Baker Entities. Subsequently, on November 21, 2019, certain of the Baker Entities acquired pre-funded warrants to purchase 11,764,706 shares of our common stock at a price of $1.69 per warrant, of which warrants to purchase 11,511,472 shares of our common stock remain outstanding. In addition, on June 1, 2020, we issued to certain of the Baker Entities pre-funded warrants to purchase 3,511,111 shares of our common stock at a price of $4.49 per warrant. Each warrant has an exercise price of $0.01 per share. If the Baker Entities, by exercising their registration rights or otherwise, sell a large number of our shares, or the market perceives that the Baker Entities intend to sell a large number of our shares, this could adversely affect the market price of our common stock.

We have anti-takeover provisions in our corporate charter documents that may result in outcomes with which you do not agree.

Our board of directors has the authority to issue up to 5,000,000 shares of undesignated preferred stock and to determine the rights, preferences, privileges and restrictions of those shares without further vote or action by our stockholders. The rights of the holders of any preferred stock that may be issued in the future may adversely affect the

rights of the holders of common stock. The issuance of preferred stock could make it more difficult for third parties to acquire a majority of our outstanding voting stock.

In addition, our Certificate of Incorporation provides for staggered terms for the members of the board of directors and supermajority approval of the removal of any member of the board of directors and prevents our stockholders from acting by written consent. Our Certificate of Incorporation also requires supermajority approval of any amendment of these provisions. These provisions and other provisions of our Amended and Restated Bylaws and of Delaware law applicable to us could delay or make more difficult a merger, tender offer or proxy contest involving us.

We have never paid dividends on our common stock and do not anticipate doing so in the foreseeable future.

We have never paid cash dividends on our stock. We currently intend to retain all future earnings, if any, for use in the operation of our business. Accordingly, we do not anticipate paying cash dividends on our common stock in the foreseeable future.

Our Amended and Restated Bylaws provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for certain litigation that may be initiated by our stockholders, which may limit a stockholder's ability to obtain a favorable judicial forum for such disputes with us or our directors, officers or employees.

Our Amended and Restated Bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, stockholders, employees or agents to us or our stockholders, (iii) any action asserting a claim against us or any of our directors, officers, stockholders, employees or agents arising out of or relating to any provision of the General Corporation Law of Delaware or our Certificate of Incorporation or Amended and Restated Bylaws, or (iv) any action against us or any of our directors, officers, stockholders, employees or agents governed by the internal affairs doctrine of the State of Delaware. This exclusive forum provision does not apply to establish the Delaware Court of Chancery as the forum for actions or proceedings brought to enforce a duty or liability created by the Securities Act or the Exchange Act, or any other claim for which the federal courts have exclusive jurisdiction.

This exclusive forum provision may limit a stockholder's ability to choose its preferred judicial forum for disputes with us or our directors, officers, employees or agents, which may discourage the filing of lawsuits with respect to such claims. If a court were to find this exclusive forum provision to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in another jurisdiction, which could adversely affect our business and financial condition.

General Risk Factors

Natural disasters, epidemic or pandemic disease outbreaks, trade wars, armed conflicts, political unrest or other events could disrupt our business or operations or those of our development partners, manufacturers, regulators or other third parties with whom we conduct business now or in the future.

A wide variety of events beyond our control, such as natural disasters (including as a result of climate change), epidemic or pandemic disease outbreaks (such as the ongoing COVID-19 pandemic), trade wars, armed conflict, political unrest or other events could disrupt our business or operations or those of our development partners, manufacturers, regulatory authorities, or other third parties with whom we conduct business. These events may cause businesses and government agencies to be shut down, supply chains to be interrupted, slowed, or rendered inoperable, and individuals to become ill, quarantined, or otherwise unable to work and/or travel due to health reasons or governmental restrictions. If our operations or those of third parties with whom we conduct business are impaired or curtailed as a result of these events, the development and commercialization of our products and product candidates could be impaired or halted, which could have a material adverse impact on our business. See, for example, "Risk Factors—General Risk Factors—Our business, operations, clinical development or commercialization plans and timelines, and access to capital could be adversely affected by unpredictable and unstable market and economic conditions." In addition, other events, such as the armed conflict between Russia and Ukraine or rising tensions between China and Taiwan, could adversely impact our business. For example, the conflict could lead to sanctions, embargoes, supply shortages, regional instability, geopolitical shifts, cyber-attacks, other retaliatory actions, and adverse effects on macroeconomic conditions, currency exchange rates, and financial markets, which could adversely impact our operations and financial results, as well as those of third parties with whom we conduct business.

Our business, operations, clinical development or commercialization plans and timelines, and access to capital could be adversely affected by unpredictable and unstable market and economic conditions.

Our business, operations, clinical development or commercialization plans and timelines, and access to capital could be adversely affected by unpredictable and unstable market and economic conditions, including as a result of rising inflation, increased interest rates, disruption or instability in the banking industry, the effects of the ongoing COVID-19 pandemic, foreign exchange rate fluctuations, and the conflict in Ukraine. The magnitude, duration and long-term effect of each of these factors, as well as the effects of actions taken by governments to address them, are unknown at this time, but they could result in further significant disruption of the global economy and financial markets. Our business may be adversely affected by any related economic downturn, volatile geopolitical and business environment, or continued market instability.

Unstable market and economic conditions could materially affect our ability to access the equity or debt capital markets or obtain other sources of capital in the future, which could negatively affect our liquidity. In addition, a recession or market correction could materially affect our business and the value of our common stock.

Market and economic conditions continue to evolve, with the ultimate impacts being uncertain and subject to change. These effects could be material, and we will continue to monitor the economic climate, COVID-19 pandemic, and the conflict in Ukraine closely. We do not yet know the full extent and magnitude of the impacts that these developments will have on our business, on the healthcare system, or on the global economy. In addition, unstable market conditions could have the effect of heightening many of the other risks described in this “Risk Factors” section.

We are subject to legal proceedings, which could harm our reputation or result in other losses or unexpected expenditure of time and resources.

From time to time, we may be involved in disputes, including, without limitation, disputes with our employees, collaborative partners, and third-party vendors. We may be called upon to initiate legal proceedings or to defend ourselves in such legal proceedings relating to our relationships with these parties, our decisions and actions or omissions with respect thereto, and our business. In addition, if our stock price is volatile, we may become involved in securities class action lawsuits in the future. Due to the inherent uncertainties in legal proceedings, we cannot accurately predict the ultimate outcome of any such proceedings. An unfavorable outcome in any such proceedings could have an adverse impact on our business, financial condition and results of operations. Any current or future dispute resolution or legal proceeding, regardless of the merits of any such proceeding, could harm our reputation and result in substantial costs and a diversion of management’s attention and resources that are needed to successfully run our business.

Insurance coverage is increasingly more costly and difficult to obtain or maintain.

While we currently have insurance for our business, property, directors and officers, and our products, insurance is increasingly more costly and narrower in scope, and we may be required to assume more risk in the future. If we are subject to claims or suffer a loss or damage in excess of our insurance coverage, we will be required to bear any loss in excess of our insurance limits. If we are subject to claims or suffer a loss or damage that is outside of our insurance coverage, we may incur significant uninsured costs associated with loss or damage that could have an adverse effect on our operations and financial position. Furthermore, any claims made on our insurance policies may impact our ability to obtain or maintain insurance coverage at reasonable costs or at all.

If we fail to retain our existing key personnel or fail to attract and retain additional key personnel, the development of our product candidates, the commercialization of our products, and the related expansion of our business will be delayed or stopped.

We are highly dependent upon our senior management and scientific team, the unexpected loss of whose services might impede the achievement of our development and commercial objectives. Competition for key personnel with the experience that we require is intense and is expected to continue to increase. Our inability to attract and retain the required number of skilled and experienced management, commercial, operational and scientific personnel would harm our business because we rely upon these personnel for many critical functions of our business.

Item 5. Other Information

During the three months ended June 30, 2023, no director or officer of the Company adopted or terminated a “Rule 10b5-1 trading arrangement” or “non-Rule 10b5-1 trading arrangement,” as each term is defined in Item 408(a) of Regulation S-K.

Item 6. Exhibits

Number	Description
3.1	Third Restated Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed December 22, 2006.
3.2	Certificate of Amendment to the Third Restated Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed July 24, 2007.
3.3	Certificate of Amendment to the Third Restated Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed May 7, 2014.
3.4	Certificate of Elimination of the Series B Junior Participating Preferred Stock. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed May 13, 2020.
3.5	Certificate of Amendment to the Third Restated Certificate of Incorporation. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed May 13, 2020.
3.6	Amended and Restated Bylaws of Registrant effective October 29, 2008. Incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed November 4, 2008.
3.7	Amendment to Amended and Restated By-Laws of BioCryst Pharmaceuticals, Inc., dated January 21, 2018. Incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed January 22, 2018.
(10.1)†&	Loan Agreement, dated as of April 17, 2023, by and among BioCryst Pharmaceuticals, Inc., as borrower, the guarantors signatory thereto or otherwise party thereto from time to time, BioPharma Credit PLC, as collateral agent for the lenders, and BPCR Limited Partnership and BioPharma Credit Investments V (Master) LP, as lenders.
10.2*	BioCryst Pharmaceuticals, Inc. Stock Incentive Plan (as amended and restated as of April 24, 2023). Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed June 14, 2023.
(10.3)*	BioCryst Pharmaceuticals, Inc. Employee Stock Purchase Plan (as amended and restated as of July 7, 2023).
(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 pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
(32.2)	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
(101)	Financial statements from the Quarterly Report on Form 10-Q of BioCryst Pharmaceuticals, Inc. for the three and six months ended June 30, 2023, formatted in Inline XBRL: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Comprehensive Loss, (iii) Consolidated Statements of Cash Flows, and (iv) Notes to Consolidated Financial Statements, tagged as blocks of text and including detailed tags.

(104)	Cover Page Interactive Data File – The cover page from this Quarterly Report on Form 10-Q for the quarter ended June 30, 2023 is formatted in Inline XBRL (contained in Exhibit 101).

( )	Filed or furnished herewith.
†	Certain identified information has been omitted pursuant to Item 601(b)(10) of Regulation S-K because it is both not material and would likely cause competitive harm to the Company if publicly disclosed.
&	Certain personally identifiable information has been omitted from this exhibit pursuant to Item 601(a)(6) of Regulation S-K.
*	Management contract.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on this 7th day of August, 2023.

BIOCRYST PHARMACEUTICALS, INC.

/s/ Jon P. Stonehouse

Jon P. Stonehouse
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Anthony Doyle

Anthony Doyle
Chief Financial Officer
(Principal Financial Officer and Interim Principal Accounting Officer)

Exhibit 10.1

Certain information has been omitted from this exhibit in places marked "[***]" because it is both not material and would likely cause competitive harm to the registrant if publicly disclosed. In addition, certain personally identifiable information contained in this document, marked "[***]" has been omitted from this exhibit pursuant to Item 601(a)(6) under Regulation S-K.

THE TERM LOANS HAVE BEEN ISSUED WITH "ORIGINAL ISSUE DISCOUNT" (WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED). HOLDERS OF THE LOANS SHOULD CONTACT ANTHONY DOYLE, CHIEF FINANCIAL OFFICER, BIOCRYST PHARMACEUTICALS, INC., 4505 EMPEROR BOULEVARD, SUITE 200, DURHAM, NC 27703 IN WRITING TO OBTAIN (1) THE ISSUE PRICE AND ISSUE DATE OF THE TRANCHE A NOTES, (2) THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THE TERM LOANS AND (3) THE YIELD TO MATURITY OF THE TERM LOANS.

LOAN AGREEMENT

Dated as of April 17, 2023

among

BIOCRYST PHARMACEUTICALS, INC.

(as ***Borrower***, and a ***Credit Party***),

THE GUARANTORS SIGNATORY HERETO OR OTHERWISE PARTY HERETO FROM TIME TO TIME

(as additional ***Credit Parties***),

BIOPHARMA CREDIT PLC

(as ***Collateral Agent***),

BPCR LIMITED PARTNERSHIP

(as a ***Lender***)

and

BIOPHARMA CREDIT INVESTMENTS V (MASTER) LP

(as a ***Lender***)

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this "**Agreement**"), dated as of April 17, 2023 (the "**Effective Date**") by and among BIOCRYST PHARMACEUTICALS, INC., a Delaware corporation (as "**Borrower**" and a Credit Party), the Guarantors signatory hereto or otherwise party hereto from time to time, as additional Credit Parties, BIOPHARMA CREDIT PLC, a public limited company incorporated under the laws of England and Wales with company number 10443190 (as the "**Collateral Agent**"), BPCR LIMITED PARTNERSHIP, a limited partnership established under the laws of England and Wales with registration number LP020944 (as a "**Lender**") and BIOPHARMA CREDIT INVESTMENTS V (MASTER) LP, a Cayman Islands exempted limited partnership acting by its general partner, BioPharma Credit Investments V GP LLC (as a "**Lender**"), provides the terms on which each Lender shall make, and Borrower shall repay, the Credit Extensions (as hereinafter defined). The parties hereto agree as follows:

1 ACCOUNTING AND OTHER TERMS

Except as otherwise expressly provided herein, all accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in conformity with GAAP. Calculations and determinations must be made following GAAP. If at any time any change in GAAP would affect the computation of any financial requirement set forth in any Loan Document (including for purposes of measuring compliance with any provision of Section 6), and either Borrower or the Collateral Agent shall so request, the Collateral Agent and Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP; provided, that, until so amended, (x) such requirement shall continue to be computed in accordance with GAAP prior to such change therein and (y) all financial statements, Compliance Certificates and similar documents provided, delivered or submitted hereunder shall be provided, delivered or submitted together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts referred to herein, including in Section 5 and Section 6 shall be made, without giving effect to any (a) election under ASC 825-10 (or any other Financial Accounting Standards Board Accounting Standards Codification ("**ASC**") or Financial Accounting Standard or Applicable Accounting Standard (including IFRS 9) having a similar result or effect) to value any Indebtedness or other liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value" and (b) any treatment of Indebtedness in respect of convertible debt instruments under ASC 470-20 (or any other ASC or Financial Accounting Standard or Applicable 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. Notwithstanding anything to the contrary above or in the definition of "Capital Lease Obligations", all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the effectiveness of ASC 842 shall continue to be accounted for as operating leases for all purposes hereunder or under any other Loan Documents (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with ASC 842 (on a prospective or retroactive basis or otherwise) to be treated as Capital Leases. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein. All references to "Dollars" or "$" are United States Dollars, unless otherwise noted.

It is understood and agreed that Borrower or such other Credit Party may from time to time update certain information in the Perfection Certificate, the Disclosure Letter or such other disclosure schedules attached to Loan Documents after the Effective Date to the extent expressly permitted by one or more provisions in this Agreement and the other Loan Documents to reflect changes since the Effective Date; provided, that, in no event may the Perfection Certificate, the Disclosure Letter or such other disclosure schedules be updated in a manner that would reflect or evidence a Default or Event of Default (with or without such update).

For purposes of Sections 5 and 6 and solely with respect to the amount of any Indebtedness, Investment or other transaction made or consummated in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred after the time such Indebtedness, Investment or other transaction is incurred, made or consummated (so long as such Indebtedness, Investment or other transaction, at the time incurred, made or consummated, was permitted hereunder) solely as a result of changes in rates of currency exchange occurring over time.

The Collateral Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Term SOFR Reference Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any

Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Term SOFR Reference Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Collateral Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Term SOFR Reference Rate, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to Borrower. The Collateral Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Term SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to Borrower, any Lender or any other Person for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

2 LOANS AND TERMS OF PAYMENT

2.1 Promise to Pay.

Borrower hereby unconditionally promises to pay each Lender the outstanding principal amount of the Term Loans advanced to Borrower by such Lender and accrued, unpaid and uncapitalized interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

2.2 Term Loans.

(a) Availability. Subject to the terms and conditions of this Agreement (including Sections 3.1, 3.2, 3.3, 3.4, 3.5, 3.6 and 3.7):

(i) Borrower agrees to request in accordance with Section 3.7, and each Lender severally agrees to make, a term loan to Borrower on the Tranche A Closing Date in an original principal amount equal to such Lender's Tranche A Commitment (collectively, the "**Tranche A Loan**");

(ii) At Borrower's election pursuant to Section 3.7, each Lender severally agrees to make a term loan to Borrower on the Tranche B Closing Date in an original principal amount not greater than such Lender's Tranche B Commitment (collectively, the "**Tranche B Loan**");

(iii) At Borrower's election pursuant to Section 3.7, each Lender severally agrees to make a term loan to Borrower on the Tranche C Closing Date in an original principal amount not greater than such Lender's Tranche C Commitment (collectively, the "**Tranche C Loan**"); and

(iv) At Borrower's election pursuant to Section 3.7, each Lender severally agrees to make a term loan to Borrower on the Tranche D Closing Date in an original principal amount not greater than such Lender's Tranche D Commitment (collectively, the "**Tranche D Loan**").

After repayment or prepayment (in whole or in part), no Term Loan (or any portion thereof) may be re-borrowed.

(b) Repayment.

(i) The Term Loans, including all unpaid principal thereunder (and, for the avoidance of doubt, all accrued, unpaid and uncapitalized interest, all due and unpaid Lender Expenses and any and all other outstanding amounts payable under the Loan Documents), are due and payable in full on the Term Loan Maturity Date.

(ii) The Term Loans may be prepaid only in accordance with Section 2.2(c), except as provided in Section 8.1.

(c) Prepayment of Term Loans.

(i) Borrower shall have the option, at any time after the Tranche A Closing Date, to prepay, in part (in multiples of not less than $25,000,000) or in whole, outstanding principal amounts under the Term Loans advanced by Lenders under this Agreement; provided that (A) Borrower provides written notice to the Collateral Agent of its election (which shall be irrevocable unless the Collateral Agent

otherwise consents in writing or Borrower rescinds the notice as otherwise described below) to prepay, in part (in multiples of not less than $25,000,000) or in whole, the Term Loans at least five (5) Business Days (or such longer period as the Collateral Agent may agree in its sole discretion) prior to such prepayment (which notice shall include the amount of the outstanding principal amount of the Term Loans to be prepaid), and (B) the prepayment of such principal amount shall be accompanied by any and all accrued, unpaid and uncapitalized interest thereon through the date of prepayment, any and all amounts payable in connection with such prepayment pursuant to Section 2.2(e) and Section 2.2(f) (as applicable) and, in the case of a prepayment in whole and not in part, any and all other amounts payable or accrued and not yet paid under this Agreement and the other Loan Documents (including pursuant to Section 2.4); provided, further, that any prepayment pursuant to this Section 2.2(c)(i) shall be applied first to the Tranche A Loan, then the Tranche B Loan, then the Tranche C Loan and finally, the Tranche D Loan. The Collateral Agent will promptly notify each Lender of its receipt of such notice, and the amount of such Lender's Applicable Percentage of such prepayment. Notwithstanding anything in this Section 2.2(c)(i) to the contrary, Borrower may rescind any notice of prepayment under this Section 2.2(c)(i) if such prepayment would have resulted from a refinancing of the Term Loans or other contingent transaction, which refinancing or transaction shall not be consummated or shall otherwise be delayed (in which case, the date of prepayment may be extended with the consent of the Collateral Agent (not to be unreasonably withheld, conditioned or delayed) or Borrower may elect to submit a new notice in connection with any subsequent prepayment).

(ii) Upon a Change in Control, Borrower shall promptly, and in any event no later than ten (10) days after the consummation of such Change in Control, notify the Collateral Agent in writing of the occurrence of a Change in Control, which notice shall include reasonable detail as to the nature, timing and other circumstances of such Change in Control (such notice, a "**Change in Control Notice**"). Borrower shall prepay in full all of the Term Loans advanced by Lenders under this Agreement, no later than fifteen (15) days after the consummation of such Change in Control, in an amount equal to the sum of (A) all unpaid principal and any and all accrued, unpaid and uncapitalized interest thereon through the date of prepayment (such interest to be calculated based on Term SOFR for the Interest Period during which such Change in Control is consummated), and (B) any and all amounts payable with respect to the prepayment under this Section 2.2(c)(ii) pursuant to Section 2.2(e) and Section 2.2(f) (as applicable), together with any and all other amounts payable or accrued and not yet paid under this Agreement and the other Loan Documents (including pursuant to Section 2.4). The Collateral Agent will promptly notify each Lender of its receipt of the Change in Control Notice, and the amount of such Lender's Applicable Percentage of such prepayment.

(iii) Prior to any prepayment, repurchase, redemption or similar action, of the Permitted Convertible Indebtedness in accordance with its terms (the "**Convertible Indebtedness Redemption**") (which occurs prior to the Term Loan Maturity Date), Borrower shall promptly, and in any event no later than fifteen (15) days prior to the consummation of such Convertible Indebtedness Redemption (or such later date as the Collateral Agent may agree in its sole discretion), notify the Collateral Agent in writing of the occurrence of such Convertible Indebtedness Redemption, which notice shall include reasonable detail as to the nature, timing and other circumstances of such Convertible Indebtedness Redemption (such notice, a "**Convertible Indebtedness Redemption Notice**"). Borrower shall prepay in full all of the Term Loans advanced by Lenders under this Agreement, no later than ten (10) days prior to the Convertible Indebtedness Redemption in an amount equal to the sum of (A) all unpaid and outstanding principal and any and all accrued, unpaid and uncapitalized interest with respect to the Term Loans, and (B) any applicable amounts payable with respect to the prepayment under this Section 2.2(c)(iii) pursuant to Section 2.2(e) and Section 2.2(f) (as applicable) and all other amounts payable or accrued and not yet paid under this Agreement and the other Loan Documents (including pursuant to Section 2.4). The Collateral Agent will promptly notify each Lender of its receipt of the Convertible Indebtedness Redemption Notice, and the amount of such Lender's Applicable Percentage of such prepayment. Notwithstanding the foregoing, none of the following shall be deemed to be a Convertible Indebtedness Redemption: (x) the conversion to Equity Interests by holders of Permitted Convertible Indebtedness (including any cash payment upon conversion) or required payment of any interest with respect to any Permitted Convertible Indebtedness, in each case, in accordance with the terms of the indenture or other documentation governing such Permitted Convertible Indebtedness; (y) the exchange of existing Permitted Convertible Indebtedness for or redemption of existing Permitted Convertible Indebtedness with (1) new Permitted Convertible Indebtedness (the "**Refinancing Convertible Debt**") (or the cash proceeds from the issuance of such Refinancing Convertible Debt) to the extent such Refinancing Convertible Debt is permitted to be issued under the terms of this Agreement and to the extent that such new Refinancing Convertible Debt bears interest at a rate *per annum* not to exceed **[***]** percent (**[***]**%), (2) Equity Interests, (3) the cash proceeds, if any, received pursuant to the exercise, early unwind or termination of any Permitted Equity Derivative entered into in connection with such existing Permitted Convertible Indebtedness, or (4) cash in respect of accrued and unpaid interest on such exchanged existing Permitted Convertible Indebtedness; or (z) delivery of Equity Interests and cash in lieu of fractional shares or in

respect of accrued and unpaid interest to any holder of Permitted Convertible Indebtedness to induce such holder to convert Permitted Convertible Indebtedness in accordance with the terms of the indenture governing such Permitted Convertible Indebtedness (any such transaction described in sub-clause (x), (y) or (z) above, a "**Permitted Transaction**" and collectively, the "**Permitted Transactions**").

(d) Prepayment Application. Any prepayment of the Term Loans pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a) (together with the accompanying Makewhole Amount and Prepayment Premium that is payable pursuant to Section 2.2(e) and Section 2.2(f) as applicable) shall be paid to Lenders in accordance with their respective Applicable Percentages for application to the Obligations in the following order: (i) first, to due and unpaid Lender Expenses; (ii) second, to due and unpaid Additional Consideration, if any; (iii) third, to accrued and unpaid interest at the Default Rate incurred pursuant to Section 2.3(b) with respect to past due amounts, if any; (iv) fourth, without duplication of amounts paid pursuant to clause (iii) above, to accrued, unpaid and uncapitalized interest at the Term Loan Rate; (v) fifth, to the Prepayment Premium with respect to any prepaid principal under clause (vii); (vi) sixth, to the Makewhole Amount, if applicable; (vii) seventh, to the outstanding principal amount of the Tranche A Loan (including accrued and capitalized PIK Interest), the Tranche B Loan, the Tranche C Loan or the Tranche D Loan being prepaid, as applicable, provided, that, in the case of any partial prepayment pursuant to Section 2.2(c)(i), such prepayment shall be applied first to reduce the principal amount of the Tranche A Loan, then to reduce the principal of the Tranche B Loan, then to reduce the principal of the Tranche C Loan and finally, to reduce the principal of the Tranche D Loan; and (viii) eighth, in the case of a prepayment of the Term Loans in whole, to any remaining amounts then due and payable under this Agreement and the other Loan Documents.

(e) Makewhole Amount.

(i) Any prepayment of the Tranche A Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), in each case occurring prior to the 2nd -year anniversary of the Tranche A Closing Date shall, in any such case, be accompanied by payment of an amount equal to the Tranche A Makewhole Amount.

(ii) Any prepayment of the Tranche B Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**) or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), in each case occurring prior to the 2nd-year anniversary of the Tranche B Closing Date shall, in any such case, be accompanied by payment of an amount equal to the Tranche B Makewhole Amount.

(iii) Any prepayment of the Tranche C Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), in each case occurring prior to the 2nd-year anniversary of the Tranche C Closing Date shall, in any such case, be accompanied by payment of an amount equal to the Tranche C Makewhole Amount.

(iv) Any prepayment of the Tranche D Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), in each case occurring prior to the 2nd-year anniversary of the Tranche D Closing Date shall, in any such case, be accompanied by payment of an amount equal to the Tranche D Makewhole Amount.

(f) Prepayment Premium.

(i) Any prepayment of the Tranche A Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), shall, in any such case, be accompanied by payment of an amount equal to the Tranche A Prepayment Premium.

(ii) Any prepayment of the Tranche B Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), shall, in any such case, be accompanied by payment of an amount equal to the Tranche B Prepayment Premium.

(iii) Any prepayment of the Tranche C Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), shall, in any such case, be accompanied by payment of an amount equal to the Tranche C Prepayment Premium.

(iv) Any prepayment of the Tranche D Loan by Borrower (A) pursuant to Section 2.2(c) (**[***]**), or (B) as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), shall, in any such case, be accompanied by payment of an amount equal to the Tranche D Prepayment Premium.

(g) Any Makewhole Amount or Prepayment Premium payable as a result of any prepayment of the Term Loans pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), shall be presumed to be the liquidated damages sustained by each applicable Lender as the result of the early redemption and repayment of such Term Loan Notes and Borrower agrees that it is reasonable under the circumstances currently existing. BORROWER EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE REQUIREMENTS OF LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF ANY MAKEWHOLE AMOUNT OR PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH PREPAYMENT OR ACCELERATION OR OTHERWISE. Borrower expressly agrees that (to the fullest extent it may lawfully do so) that: (i) each Makewhole Amount and Prepayment Premium is reasonable and is the product of an arm's-length transaction among sophisticated business people, ably represented by counsel; (ii) each Makewhole Amount and Prepayment Premium shall be payable notwithstanding the then-prevailing market rates at the time payment thereof is made; (iii) there has been a course of conduct among Lenders and Borrower giving specific consideration in this transaction for such agreement to pay each Makewhole Amount and Prepayment Premium; and (iv) Borrower shall be estopped hereafter from claiming differently than as agreed to in this Section 2.2(g) and Section 8.6. Borrower expressly acknowledges that its agreement to pay the Makewhole Amount and Prepayment Premium, as the case may be, to applicable Lenders as herein described is a material inducement to such Lenders to make any Credit Extension. Without affecting any of any Lender's rights or remedies hereunder or in respect hereof, if Borrower fails to pay the applicable Makewhole Amount or Prepayment Premium when due, then the amount thereof shall thereafter bear interest until paid in full at the Default Rate.

2.3 Payment of Interest on the Term Loans.

(a) Interest Rate.

(i) Subject to Section 2.3(b) below, the principal amount outstanding under each Term Loan shall accrue interest at a *per annum* rate equal to Term SOFR for the Interest Period therefor *plus* the Applicable Margin (the "**Term Loan Rate**"), which interest shall be payable quarterly in arrears in accordance with this Section 2.3.

(ii) Interest shall accrue on each Term Loan commencing on, and including, the day on which such Term Loan is made, and shall accrue on such Term Loan, or any portion thereof, through and including the day on which such Term Loan or such portion is paid.

(iii) Interest is due and payable quarterly on each Interest Date, as calculated by the Collateral Agent (which calculations shall be deemed correct absent manifest error; provided that the Collateral Agent shall provide evidence of such calculation upon Borrower's written request), commencing on the first Interest Date during the calendar quarter during which the Tranche A Closing Date occurs; provided, however, that if any such date is not a Business Day, the applicable interest shall be due and payable on the immediately preceding Business Day.

(iv) Notwithstanding the foregoing, up to fifty percent (50.0%) of the interest on the Tranche A Loan payable during the first eighteen (18) months following the Tranche A Closing Date may be paid-in-kind (the "**PIK Interest**") on any applicable Interest Date at the election of Borrower (a "**PIK Election**") by irrevocable written notice to the Collateral Agent (a "**PIK Election Notice**") no later than two (2) Business Days prior to any such applicable Interest Date (which PIK Interest shall be capitalized on each such applicable Interest Date and such capitalized amount shall be added to the outstanding principal amount of the Tranche A Loan and constitute outstanding principal of the Tranche A Loan for all purposes hereof).

(b) Default Rate. In the event Borrower fails to pay any of the Obligations when due (after giving effect to any applicable grace or cure period), or upon the commencement and during the continuance of an Insolvency Proceeding of Borrower, or upon the occurrence and during the continuance of any other Event of Default, immediately (and without notice or demand by any Lender or the Collateral Agent for payment thereof to Borrower), such past due Obligations shall accrue interest at a rate *per annum* which is **[***]** percentage points (**[***]**%) above the rate that is otherwise applicable thereto (the "**Default Rate**"), and, notwithstanding anything to the contrary in Section 2.3(a) above, such interest shall be payable entirely in cash on demand of any Lender or the Collateral Agent. Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a

permitted alternative to timely payment of any Obligations and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Collateral Agent or any Lender.

(c) 360-Day Year. Interest payable under each Term Loan shall be computed on the basis of a year of 360 days, and in each case shall be payable for the actual number of days elapsed.

(d) Payments. Except as otherwise expressly provided herein, all Term Loan payments and any other payments hereunder by (or on behalf of) Borrower shall be made on the date specified herein to such bank account of each applicable Lender as such Lender (or the Collateral Agent) shall have designated in a written notice to Borrower delivered on or before the Tranche A Closing Date (which such notice may be updated by such Lender (or the Collateral Agent) by written notice to Borrower from time to time after the Tranche A Closing Date no later than two (2) Business Days prior to the time any payment is to be made). Except as otherwise expressly provided herein, interest is payable quarterly on each Interest Date provided, however, that if any such date is not a Business Day, the applicable interest shall be due and payable on the immediately preceding Business Day. Payments of principal or interest received after 11:00 a.m. on such date are considered received at the opening of business on the next Business Day. When any payment is due on a day that is not a Business Day, such payment is due on the immediately preceding Business Day. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest made hereunder and pursuant to any other Loan Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds.

(e) Conforming Changes. In connection with the use or administration of Term SOFR, the Collateral Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Collateral Agent will promptly notify Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

(f) Benchmark Replacement Setting. Notwithstanding anything to the contrary herein or in any other Loan Document:

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (a) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (b) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Collateral Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a quarterly basis.

(ii) Conforming Changes. In connection with the implementation and administration of a Benchmark Replacement, the Collateral Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(iii) Notices; Standards for Decisions and Determinations. The Collateral Agent will promptly notify Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Collateral Agent will notify Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to sub-clause (iv) below and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Collateral Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.3(f), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will

be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.3(f).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Collateral Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Collateral Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to sub-clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Collateral Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

2.4 Expenses. Borrower shall pay to or reimburse (or pay directly on behalf of) the Collateral Agent and, as applicable, each Lender, all of such Person's reasonable and documented Lender Expenses incurred through and after the Effective Date, promptly after receipt of a written demand therefor by such Lender or the Collateral Agent (with, in the case of any Lender, a copy of such demand to the Collateral Agent), setting forth in reasonable detail such Person's Lender Expenses.

2.5 Requirements of Law; Increased Costs. In the event that any applicable Change in Law:

(a) Does or shall subject any Lender to any Tax of any kind whatsoever with respect to this Agreement, the Term Loans or any other Loan Documents (except, in each case, Indemnified Taxes, Taxes described in clause (b) through (d) of the definition of Excluded Taxes, and Connection Income Taxes);

(b) Does or shall impose, modify or hold applicable any reserve, capital requirement, special deposit, compulsory loan, insurance charge or similar requirements against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, any Lender; or

(c) Does or shall impose on any Lender any other condition (other than Taxes, which are addressed in clause (a) above); and the result of any of the foregoing is to increase the cost to such Lender (as determined by such Lender in good faith using calculation methods customary in the industry) of making, renewing or maintaining the Term Loans or to reduce any amount receivable in respect thereof or to reduce the rate of return on the capital of such Lender or any Person controlling such Lender,

then, in any such case, such Lender shall notify Borrower in writing of the event by reason of which it has incurred additional costs or has reduced amounts receivable or rate of return, and submit to Borrower a certificate as to such additional costs or has reduced amounts receivable or rate of return containing the calculation thereof in reasonable detail, which shall be conclusive in the absence of manifest error. Borrower shall promptly, and no later than thirty (30) days of its receipt of the certificate described above, pay to such Lender, subject to the terms of this Section 2.5, any additional amounts necessary to compensate such Lender for such additional cost or reduced amounts receivable or rate of return as reasonably determined by such Lender with respect to this Agreement or the Term Loans made hereunder. The provisions of this Section 2.5 shall survive the termination of this Agreement and the payment of the outstanding Term Loans and all other Obligations. Failure or delay on the part of any such Lender to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital under this Section 2.5 shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrower shall not be under any obligation to compensate such Lender under this Section 2.5 with respect to increased costs or reductions with respect to any period prior to the date that is 180 days prior to the date of the delivery of the notice required pursuant to the foregoing provisions of this paragraph; provided, further, 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.

2.6 Taxes; Withholding, Etc.

(a) All sums payable by any Credit Party hereunder and under the other Loan Documents shall (except to the extent required by Requirements of Law) be paid free and clear of, and without any deduction or withholding on account of, any Tax imposed, levied, collected, withheld or assessed by any Governmental Authority. In addition, Borrower agrees to pay, and shall indemnify and hold each Lender harmless from, Other Taxes, and as soon as practicable after the date of paying Other Taxes to a Governmental Authority, Borrower shall furnish to each Lender (as applicable, with a copy to the Collateral Agent) the original or a certified copy of a receipt evidencing payment thereof or other evidence reasonably satisfactory to such Lender.

(b) If any Credit Party or any other Person ("**Withholding Agent**") is required by Requirements of Law to make any deduction or withholding on account of any Tax (as determined in the good faith discretion of such Withholding Agent) from any sum paid or payable by any Credit Party to any Lender under any of the Loan Documents: (i) such Withholding Agent shall notify such Lender in writing (with a copy to the Collateral Agent) of any such requirement or any change in any such requirement promptly after such Withholding Agent becomes aware of it; (ii) such Withholding Agent shall make any such withholding or deduction; (ii) such Withholding Agent shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Credit Party) for its own account or (if that liability is imposed on such Lender, as the case may be) on behalf of and in the name of such Lender in accordance with Requirements of Law; (iv) if the Tax is an Indemnified Tax, the sum payable by such Credit Party in respect of which the relevant deduction, withholding or payment of Indemnified Tax is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment (including any deductions for Indemnified Taxes applicable to additional sums payable under this Section 2.6(b)), such Lender receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment of Indemnified Tax been required or made; and (v) as soon as practicable after paying any sum from which it is required by Requirements of Law to make any deduction or withholding, Borrower shall (or shall cause such Withholding Agent, if not Borrower, to) deliver to such Lender (with a copy to the Collateral Agent) evidence reasonably satisfactory to such Lender of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other Governmental Authority.

(c) Borrower shall indemnify each Lender for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.6(c)) paid by such Lender and any liability (including 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. Any indemnification payment pursuant to this Section 2.6(c) shall be made to the applicable Lender within ten (10) days from written demand therefor.

(d) **[***]**

(e) 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 Borrower, at the time or times reasonably requested by Borrower, such properly completed and executed documentation reasonably requested by Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, such Lender, if reasonably requested by Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by Borrower as will enable Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.6(e)(i), (ii) or (iv) below) shall not be required if in such 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. For avoidance of doubt, for the purposes of this Section 2.6(e), the term "Lender" shall include each applicable assignee. Without limiting the generality of the foregoing:

(i) If any Lender is organized under the laws of the United States or any state thereof, such Lender shall deliver, and shall cause each applicable assignee thereof to deliver, to Borrower an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax.

(ii) If any Lender is a Foreign Lender, such Lender shall deliver, and shall cause each applicable assignee thereof to deliver, to Borrower, on or about the date on which such Foreign Lender becomes a Lender under this Agreement, and at such other times as may be necessary in the determination of Borrower (in the reasonable exercise of its discretion), whichever of the following is applicable:

(1) in the case that such Lender is a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document (including any original issue discount), a properly completed and duly executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, a properly completed and duly executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) a completed and duly executed copy of IRS Form W-8ECI;

(3) in the case that such Foreign Lender is claiming an exemption from U.S. federal withholding Tax pursuant to the "portfolio interest exemption" under Section 881(c) of the IRC, it shall provide Borrower with the applicable executed IRS Form W-8BEN-E or IRS Form W-8BEN, as applicable, and a certificate reasonably satisfactory to Borrower to the effect that any interest received by such Foreign Lender is not received by a "bank" on "extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business" within the meaning of Section 881(c)(3)(A) of the IRC, a "10 percent shareholder" of Borrower within the meaning of Section 871(h)(3)(B) of the IRC, or a "controlled foreign corporation" related to Borrower as described in Section 881(c)(3)(C) of the IRC, or

(4) to the extent that such Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by a withholding statement and IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), IRS Form W-9 or other certification documents from each beneficial owner, as applicable; 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 certificate referenced in Section 2.6(e)(ii)(3) above on behalf of each such direct or indirect partner.

(iii) If any Lender is a Foreign Lender it shall, to the extent it is legally entitled to do so, deliver to Borrower (in such number of copies as shall be requested by the recipient) on or about the date on which it becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of Borrower), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrower to determine the withholding or deduction required to be made.

(iv) If a payment made to any 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 IRC, as applicable), such Lender shall deliver to Borrower at the time or times prescribed by law and at such time or times reasonably requested by Borrower such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by Borrower as may be necessary for Borrower to comply with its obligations under FATCA and to determine that Lender has complied with its obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this sub-clause (iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(v) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or notify Borrower in writing of its legal inability to do so.

(f) If any party hereto determines, in its discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.6 (including by the payment of additional amounts pursuant to this Section 2.6), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, under this Section 2.6 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such

indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (f) in the event that such indemnified party is required to repay such refund to such Governmental Authority and the requirement to repay such refund to such Governmental Authority is not due to the indemnified party's failure to timely provide complete and accurate Internal Revenue Service forms and other documentation required pursuant to Section 2.6(e) or Section 2.8. Notwithstanding anything to the contrary in this clause (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (f) if the payment of such amount would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the indemnification payments or additional amounts giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such tax had never been paid. This clause (f) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) Tax Status of Borrower. Borrower is currently treated as a corporation for U.S. federal income tax purposes. Borrower shall not take any affirmative action (including not making any election under Section 301.7701-3(c) of the Treasury Regulations (or any successor provision) by way of filing an IRS Form 8832) to change its U.S. entity tax classification without the prior written consent of the Required Lenders.

(h) Tax Reporting Assistance. Borrower shall use commercially reasonable efforts to furnish any information reasonably necessary to assist any Lender (i) in the computation of accruals with respect to any "original issue discount" or "market discount" arising with respect to the Term Loans for U.S. federal income tax purposes, and (ii) with its compliance with any associated tax reporting or filing requirements of such Lender or its partners, members or beneficial owners.

2.7 Additional Consideration. As additional consideration for the obligation of each Lender to fund its Applicable Percentage of the Term Loans and the funding of its Applicable Percentage of the Term Loans pursuant to Section 2.2(a) and Section 3.7:

(a) on the Tranche A Closing Date, Borrower shall pay to each Lender an amount equal to such Lender's Applicable Percentage of (i) the Tranche A Additional Consideration.

(b) on the Tranche B Closing Date, Borrower shall pay to each Lender an amount equal to such Lender's Applicable Percentage of the Tranche B Additional Consideration.

(c) on the Tranche C Closing Date, Borrower shall pay to each Lender an amount equal to such Lender's Applicable Percentage of the Tranche C Additional Consideration.

(d) on the Tranche D Closing Date, Borrower shall pay to each Lender an amount equal to such Lender's Applicable Percentage of the Tranche D Additional Consideration.

(e) Any and all Additional Consideration shall be fully earned when paid and shall not be refundable for any reason whatsoever and shall be treated as original issue discount with respect to the applicable Term Loan for U.S. federal income tax purposes, unless otherwise required by Requirements of Law. The Additional Consideration payable hereunder shall be deducted, as applicable, from the proceeds of the Tranche A Loan (with respect to the Tranche A Additional Consideration), the Tranche B Loan (with respect to the Tranche B Additional Consideration), the Tranche C Loan (with respect to the Tranche C Additional Consideration) and the Tranche D Loan (with respect to the Tranche D Additional Consideration), in each case, to be advanced to Borrower pursuant to Section 2.2(a) and Section 3.7.

2.8 Register; Term Loan Notes.

(a) Register. Subject to Section 12.11, Borrower will maintain at all times at its principal executive office in the United States a register that identifies each beneficial owner that is entitled to a payment of principal and stated interest on each Term Loan (the "**Register**") and provides for the registration and transfer of Term Loan Notes so that each Term Loan is at all times in "registered form" within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations (or any amended or successor version) and Section 163(f), 871(h)(2) and 881(c)(2) of the IRC and any related regulations (and any other relevant or successor provisions of the IRC or such regulations). Each Term Loan: (i) shall, pursuant to this clause (a), be registered as to both principal and any stated interest with Borrower or its agent, and (ii) shall be transferred or exchanged by any Lender only by surrender of the old instrument at the principal executive office of Borrower (or at the place of payment named in the Term Loan Note, if any), accompanied, if so required by Borrower in the case of a Lender Transfer, by a written

instrument of transfer in form reasonably satisfactory to Borrower duly executed by the holder thereof or by such holder's attorney duly authorized in writing, and Borrower will execute and deliver in exchange therefor a new Term Loan Note or Term Loan Notes, in such denomination(s) as may be requested by such holder, of like tenor and in the same aggregate outstanding principal amount as the aggregate outstanding principal amount of the Term Loan Note(s) so surrendered. Any Term Loan Note issued in exchange for any other Term Loan Note or upon transfer thereof shall carry the rights to unpaid interest and interest to accrue that were carried by the Term Loan Note so exchanged or transferred, and neither gain nor loss of interest shall result from any such transfer or exchange. Any transfer tax or governmental charge relating to such transaction shall be paid by the holder requesting the exchange. The entries in the Register shall be conclusive and binding for all purposes, including as to the outstanding principal amount of the Term Loan Note and the payment of interest, principal and other sums due hereunder absent manifest error and Borrower, Lenders and any of their respective agents shall treat the Person recorded in the Register as the sole and exclusive record and beneficial holder and owner of such Term Loan Note or any other Loan Document (including this Agreement), and a Lender hereunder, for all purposes whatsoever.

(b) Term Loan Notes. Each Lender shall issue to Borrower, and Borrower shall execute and deliver to each Lender to evidence such Lender's Term Loan, (i) on the Tranche A Closing Date, a Tranche A Note, and (ii) on the Tranche B Closing Date (if any), a Tranche B Note, (iii) on the Tranche C Closing Date (if any), a Tranche C Note, and (iv) on the Tranche D Closing Date (if any), a Tranche D Note. All amounts due under the Term Loan Notes shall be repayable as set forth in this Agreement and interest shall accrue on the principal amount of the Term Loans represented by the Term Loan Notes, in each case, in accordance with the terms of this Agreement. All Term Loan Notes shall rank for all purposes *pari passu* with each other.

2.9 Mitigation Obligation; Replacement of Lender.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 2.5, or requires Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.6, then such Lender shall (solely at the written request of Borrower) use commercially reasonable efforts to, as applicable, designate a different lending or issuing office for funding or booking its Term 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 (i) would eliminate or reduce amounts payable pursuant to Section 2.5 or 2.6, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses (including, for the avoidance of doubt, all reasonable fees, charges and disbursements of counsel) incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 2.5, or if 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 2.6 and, in each case, such Lender has declined or is unable to designate a different lending or issuing office in accordance with clause (a) above, then Borrower may, at its sole expense and effort, upon written notice to such Lender and the Collateral Agent, require such Lender to use commercially reasonable efforts to identify an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment) and assign and delegate, without recourse, in accordance with and subject to the restrictions contained in, and consents required by, Section 11.1, all of its interests, rights (other than its existing rights to payments pursuant to Section 2.4, 2.5 or 2.6, as applicable) and obligations under this Agreement and the related Loan Documents to such assignee; provided, however, that such Lender shall have received, as applicable, payment of an amount equal to the outstanding principal of its Term Loans (and participations, if any), accrued interest thereon and all other amounts payable to it hereunder and under the other Loan Documents (including Section 2.4 hereof) other than any accrued makewhole amounts and prepayment premiums, from such assignee (to the extent of such outstanding principal and accrued interest and other amounts) or from Borrower; provided, further, that such assignment does not conflict with Requirements of Law; provided, finally, that such 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. If any Lender (or the Collateral Agent on its behalf) fails to identify an assignee pursuant to the preceding sentence (a "**Tax Related Prepayment Trigger**"), Borrower may refinance and replace all or part of the Term Loans and Term Loan Commitment outstanding without premium or penalty to Borrower.

(c) Assignment and Assumption. Each party hereto agrees that (i) an assignment required pursuant to this Section 2.9 may be effected pursuant to an assignment and assumption agreement mutually agreed and executed by Borrower, the Collateral Agent, the assignee and the applicable Lender and (ii) following the effectiveness of any such assignment, each of the other parties hereto party to such assignment agree to (and to cause the assignee to) execute and deliver such documents necessary to evidence such assignment as reasonably requested

by the applicable Lender; provided, that, any such documents shall be without recourse to or warranty by any such parties hereto.

3 CONDITIONS OF TERM LOANS

3.1 Conditions Precedent to Tranche A Loans. Each Lender's obligation to advance its Applicable Percentage of the Tranche A Loan Amount is subject to the satisfaction (or waiver in Lenders' sole discretion in accordance with Section 11.5 hereof) of the following conditions:

(a) the Collateral Agent's and each Lender's receipt:

(i) on the Effective Date, of copies of the Loan Agreement, the Disclosure Letter, the Perfection Certificate for Borrower and its Subsidiaries and the Advance Request Form, in each case (x) dated as of the Effective Date, (y) executed (where applicable) and delivered by each applicable Credit Party and (z) in form and substance reasonably satisfactory to the Collateral Agent; and

(ii) on the Tranche A Closing Date, of copies of the other Loan Documents (including the schedules thereto), including the Tranche A Notes executed by Borrower and Amendment to the Intercreditor Agreement, the Joinder to the Intercreditor Agreement, Collateral Documents (but excluding any Control Agreements, Collateral Access Agreements and any other Loan Document described in Schedule 5.14 of the Disclosure Letter to be delivered after the Tranche A Closing Date), in each case (x) dated as of the Tranche A Closing Date, (y) executed (where applicable) and delivered by each applicable Credit Party, and (z) in form and substance reasonably satisfactory to the Collateral Agent;

(b) the Collateral Agent's receipt of (i) true, correct and complete copies of the Operating Documents of each of Borrower and the Credit Parties and a copy of the up-to-date articles of association, certified by the relevant commercial register), and (ii) a Secretary's Certificate, dated the Tranche A Closing Date, certifying that the foregoing copies are true, correct and complete (such Secretary's Certificate to be in form and substance reasonably satisfactory to the Collateral Agent);

(c) the Collateral Agent's receipt of a good standing certificate for each Credit Party (where applicable in the subject jurisdiction) (or a letter of status with respect to any Credit Party incorporated in Ireland), certified by a Director or the Secretary of such Credit Party as of a date no earlier than thirty (30) days (or such shorter period as the Collateral Agent may agree in its sole discretion) prior to the Tranche A Closing Date, certified (where available) by the Secretary of State (or the equivalent thereof) of the jurisdiction of incorporation, formation or organization of such Person as of a date no earlier than thirty (30) days (or such shorter period as the Collateral Agent may agree in its sole discretion) prior to the Tranche A Closing Date;

(d) the Collateral Agent's receipt of a Secretary's Certificate in relation to each Credit Party, dated the Tranche A Closing Date, certifying that (i) attached as Exhibit A to such certificate is a true, correct, and complete copy of the Borrowing Resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Credit Party of the Loan Documents to which it is a party, (ii) the name(s) and title(s) of the officers or directors or other signatories of such Credit Party authorized to execute the Loan Documents to which such Credit Party is a party on behalf of such Credit Party together with a sample of the true signature(s) of such Credit Party(s), and (iii) that the Collateral Agent and each Lender may conclusively rely on such certificate with respect to the authority of such officers unless and until such Credit Party shall have delivered to the Collateral Agent a further certificate canceling or amending such prior certificate;

(e) each Credit Party shall have obtained all Governmental Approvals, if any, and all consents or approvals of other Persons, including the approval or consent of the equityholders of Borrower, if any, in each case that are necessary in connection with the transactions contemplated by the Loan Documents, and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to the Collateral Agent;

(f) the Collateral Agent's receipt on the Tranche A Closing Date of opinions of (i) Gibson, Dunn & Crutcher, LLP, United States counsel to Borrower and the other the Credit Parties, and (ii) Matheson LLP, Irish counsel to the Lenders and the Collateral Agent, in each case in form and substance reasonably satisfactory to the Collateral Agent;

(g) subject to Section 5.14, the Collateral Agent's receipt on the Tranche A Closing Date of (i) evidence that any products liability and general liability insurance policies maintained regarding any Collateral are in full force and effect and (ii) appropriate evidence showing the Collateral Agent, for the benefit of Lenders and

the other Secured Parties, having been named as additional insured or loss payee, as applicable (such evidence to be in form and substance reasonably satisfactory to the Collateral Agent) with respect to any products liability and general liability insurance policies maintained in the United States regarding any Collateral;

(h) the Collateral Agent's receipt prior to the Tranche A Closing Date of Borrower's U.S. tax forms and all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the U.S.A. Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**");

(i) concurrent with the funding of the Tranche A Loan, (i) payment of Lender Expenses then due as specified in Section 2.4 hereof for which Borrower has received an invoice at least one (1) Business Day prior, and payment of the Tranche A Additional Consideration in accordance with Section 2.7, which such payments shall be deducted from the proceeds of the Tranche A Loan and (ii) payment of any and all expenses incurred in connection with the repayment of all amounts outstanding under the Existing Credit Agreement;

(j) a payoff letter in respect of the Indebtedness outstanding under the Existing Credit Agreement from Athyrium, as the administrative agent and collateral agent thereunder, and evidencing the repayment in full of all such Indebtedness and all other amounts outstanding pursuant thereto prior to or concurrent with the funding of the Tranche A Loan on the Tranche A Closing Date and (ii) evidence of termination of all Liens on or security interests in any and all collateral securing the payment of any such indebtedness and any guaranty and other obligation of Borrower and each of its Subsidiaries thereunder in favor of any Person in connection with such repayment (such evidence in form and substance reasonably satisfactory to the Collateral Agent); and

(k) the Collateral Agent's receipt of a certificate, dated the Tranche A Closing Date and signed by a Responsible Officer of Borrower, confirming: (i) there is no Adverse Proceeding pending or, to the Knowledge of Borrower, threatened, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, except as set forth on Schedule 4.7 of the Disclosure Letter; (ii) satisfaction of the conditions precedent set forth in this Section 3.1 and in Section 3.5, Section 3.6 and Section 3.7 (such certificate to be in form and substance reasonably satisfactory to the Collateral Agent); and (iii) that the organizational structure and capital structure of Borrower and each of its Subsidiaries is as described on Schedule 4.15 of the Disclosure Letter as at the Tranche A Closing Date.

3.2 Conditions Precedent to Tranche B Loan. Each Lender's obligation to advance its Applicable Percentage of the Tranche B Loan Amount is subject to the satisfaction (or waiver in accordance with Section 11.5 hereof) of the following conditions:

(a) the Collateral Agent's and each Lender's receipt, on the Tranche B Closing Date, of the Tranche B Note executed by Borrower, and, if and to the extent any update thereto is necessary between the Tranche A Closing Date and the Tranche B Closing Date, an updated Disclosure Letter or Perfection Certificate (provided, that in no event may the Disclosure Letter or the Perfection Certificate be updated in a manner that would reflect or evidence a Default or an Event of Default (with or without such update)), in each case (x) dated as of the Tranche B Closing Date, (y) executed (where applicable) and delivered by each applicable Credit Party, and (z) in form and substance reasonably satisfactory to the Collateral Agent;

(b) the Collateral Agent's receipt of a Secretary's Certificate in relation to each Credit Party, dated the Tranche B Closing Date, certifying that the (i) Borrowing Resolutions adopted as of the Tranche A Closing Date authorizing the Term Loans and previously delivered to the Collateral Agent pursuant to Section 3.1(d) have not been modified and remain in full force and effect or (ii) attached as Exhibit A to such certificate is a true, correct, and complete copy of the Borrowing Resolutions then in full force and effect authorizing the Tranche B Loan;

(c) concurrent with the funding of the Tranche B Loan, (payment of Lender Expenses then due as specified in Section 2.4 hereof for which Borrower has received an invoice at least one (1) Business Day prior, and payment of the Tranche B Additional Consideration in accordance with Section 2.7, which such payments shall be deducted from the proceeds of the Tranche B Loan; and

(d) the Collateral Agent's receipt of a certificate, dated the Tranche B Closing Date and signed by a Responsible Officer of Borrower, confirming: (i) there is no Adverse Proceeding pending or, to the Knowledge of Borrower, threatened, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, except as set forth on Schedule 4.7 of the Disclosure Letter delivered in accordance with Section 3.1(a)(i) or Section 3.2(a)(i), as applicable; and (ii) satisfaction of the conditions precedent set forth in

this Section 3.2 and in Section 3.5, Section 3.6 and Section 3.7 (such certificate to be in form and substance reasonably satisfactory to the Collateral Agent.

3.3 Conditions Precedent to Tranche C Loan. Each Lender's obligation to advance its Applicable Percentage of the Tranche C Loan Amount is subject to the satisfaction (or waiver in accordance with Section 11.5 hereof) of the following conditions:

(a) the Collateral Agent's and each Lender's receipt, on the Tranche C Closing Date, of the Tranche C Note executed by Borrower, and, if and to the extent any update thereto is necessary between the prior Closing Date and the Tranche C Closing Date, an updated Disclosure Letter or Perfection Certificate (provided, that in no event may the Disclosure Letter or the Perfection Certificate be updated in a manner that would reflect or evidence a Default or an Event of Default (with or without such update)), in each case (x) dated as of the Tranche C Closing Date, (y) executed (where applicable) and delivered by each applicable Credit Party, and (z) in form and substance reasonably satisfactory to the Collateral Agent;

(b) the Collateral Agent's receipt of a Secretary's Certificate in relation to each Credit Party, dated the Tranche C Closing Date, certifying that the (i) Borrowing Resolutions adopted as of the Tranche A Closing Date authorizing the Term Loans and previously delivered to the Collateral Agent pursuant to Section 3.1(d) have not been modified and remain in full force and effect or (ii) attached as Exhibit A to such certificate is a true, correct, and complete copy of the Borrowing Resolutions then in full force and effect authorizing the Tranche C Loan;

(c) concurrent with the funding of the Tranche C Loan, payment of Lender Expenses then due as specified in Section 2.4 hereof for which Borrower has received an invoice at least one (1) Business Day prior, and payment of the Tranche C Additional Consideration in accordance with Section 2.7, which such payments shall be deducted from the proceeds of the Tranche C Loan; and

(d) the Collateral Agent's receipt of a certificate, dated the Tranche C Closing Date and signed by a Responsible Officer of Borrower, confirming: (i) there is no Adverse Proceeding pending or, to the Knowledge of Borrower, threatened, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, except as set forth on Schedule 4.7 of the Disclosure Letter delivered in accordance with Section 3.1(a)(i) , Section 3.2(a)(i) or Section 3.3(a)(i), as applicable; and (ii) satisfaction of the conditions precedent set forth in this Section 3.3 and in Section 3.5, Section 3.6 and Section 3.7 (such certificate to be in form and substance reasonably satisfactory to the Collateral Agent).

3.4 Conditions Precedent to Tranche D Loan. Each Lender's obligation to advance its Applicable Percentage of the Tranche D Loan Amount is subject to the satisfaction (or waiver in accordance with Section 11.5 hereof) of the following conditions:

(a) the Collateral Agent's and each Lender's receipt, on the Tranche D Closing Date, of the Tranche D Note executed by Borrower, and, if and to the extent any update thereto is necessary between the prior Closing Date and the Tranche D Closing Date, an updated Disclosure Letter or Perfection Certificate (provided, that in no event may the Disclosure Letter or the Perfection Certificate be updated in a manner that would reflect or evidence an Event of Default (with or without such update)), in each case (x) dated as of the Tranche D Closing Date, (y) executed (where applicable) and delivered by each applicable Credit Party, and (z) in form and substance reasonably satisfactory to the Collateral Agent;

(b) the Collateral Agent's receipt of a Secretary's Certificate in relation to each Credit Party, dated the Tranche D Closing Date, certifying that the (i) Borrowing Resolutions adopted as of the Tranche A Closing Date authorizing the Term Loans and previously delivered to the Collateral Agent pursuant to Section 3.1(d) have not been modified and remain in full force and effect or (ii) attached as Exhibit A to such certificate is a true, correct, and complete copy of the Borrowing Resolutions then in full force and effect authorizing the Tranche D Loan;

(c) concurrent with the funding of the Tranche D Loan, payment of Lender Expenses then due as specified in Section 2.4 hereof for which Borrower has received an invoice at least one (1) Business Day prior, and payment of the Tranche D Additional Consideration in accordance with Section 2.7, which such payments shall be deducted from the proceeds of the Tranche D Loan; and

(d) the Collateral Agent's receipt of a certificate, dated the Tranche D Closing Date and signed by a Responsible Officer of Borrower, confirming: (i) there is no Adverse Proceeding pending or, to the Knowledge of Borrower, threatened, that, individually or in the aggregate, could reasonably be expected to result in

a Material Adverse Change, except as set forth on Schedule 4.7 of the Disclosure Letter delivered in accordance with Section 3.1(a)(i), Section 3.2(a)(i), Section 3.3(a) (i),or Section 3.4(a)(i), as applicable; and (ii) satisfaction of the conditions precedent set forth in this Section 3.4 and in Section 3.5, Section 3.6 and Section 3.7 (such certificate to be in form and substance reasonably satisfactory to the Collateral Agent).

3.5 Additional Conditions Precedent to Term Loans. The obligation of each Lender to advance its Applicable Percentage of each Term Loan is subject to the following additional conditions precedent:

(a) the representations and warranties made by the Credit Parties in Section 4 of this Agreement and in the other Loan Documents are true and correct in all material respects on the applicable Closing Date, unless any such representation or warranty is stated to relate to a specific earlier date, in which case such representation or warranty shall be true and correct in all material respects as of such earlier date (it being understood that any representation or warranty that is qualified as to "materiality," "Material Adverse Change," or similar language shall be true and correct in all respects (as so qualified), in each case, on the applicable Closing Date (both with and without giving effect to the Term Loans) or as of such earlier date, as applicable); and

(b) there shall not have occurred (i) any Material Adverse Change or (ii) any Default or Event of Default.

3.6 Covenant to Deliver. The Credit Parties agree to deliver to the Collateral Agent or each Lender, as applicable, each item required to be delivered to Collateral Agent or each Lender, as applicable, under this Agreement as a condition precedent to any Credit Extension; provided, however, that any such items set forth on Schedule 5.14 of the Disclosure Letter shall be delivered to the Collateral Agent within the time period prescribed therefor on such schedule. The Credit Parties expressly agree that a Credit Extension made prior to the receipt by the Collateral Agent or any Lender, as applicable, of any such item shall not constitute a waiver by the Collateral Agent or any Lender of the Credit Parties' obligation to deliver such item, and the making of any Credit Extension in the absence of any such item required to have been delivered by the date of such Credit Extension shall be in the applicable Lender's sole discretion.

3.7 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of each Term Loan set forth in this Agreement, to obtain the Term Loans, Borrower shall deliver to the Collateral Agent and Lenders by electronic mail or facsimile a completed Advance Request Form for the Term Loans executed by a Responsible Officer of Borrower (which notice shall be irrevocable on and after the date on which such notice is given and Borrower shall be bound to make a borrowing in accordance therewith), in which case each Lender agrees, subject to the satisfaction of the applicable conditions precedent set forth in this Article 3, to advance an amount equal to its Applicable Percentage of the Tranche A Loan Amount, Tranche B Loan Amount, Tranche C Loan Amount or Tranche D Loan Amount, as applicable, to Borrower on the applicable Closing Date, by wire transfer of same day funds in Dollars, to such account(s) in the United States as may be designated in writing to the Collateral Agent by Borrower at least two (2) Business Days prior to such Closing Date; provided, however, that with respect to each of the Tranche B Loan, Tranche C Loan and Tranche D Loan, Borrower shall deliver to the Collateral Agent by electronic mail or facsimile such completed Advance Request Form no later than September 30, 2024.

4 REPRESENTATIONS AND WARRANTIES

In order to induce each Lender and the Collateral Agent to enter into this Agreement and for each Lender to make the Credit Extensions to be made on the applicable Closing Date, each Credit Party, jointly and severally with each other Credit Party, represents and warrants to each Lender and the Collateral Agent that the following statements are true and correct as of the Effective Date and on the applicable Closing Date on which each Term Loan is made (both with and without giving effect to the Term Loans) except as otherwise specified below:

4.1 Due Organization, Existence, Power and Authority. Borrower and each of its Subsidiaries (a) is duly incorporated, organized or formed, and validly existing and, where applicable, in good standing under the laws of its jurisdiction of incorporation, organization or formation identified on Schedule 4.15 of the Disclosure Letter, (b) has all requisite power and authority to (i) own, lease, license and operate its assets and properties and to carry on its business as currently conducted and (ii) execute and deliver the Loan Documents to which it is a party and to perform its obligations thereunder and otherwise carry out the transactions contemplated thereby, (c) is duly qualified and, where applicable, in good standing under the laws of each jurisdiction where its ownership, lease, license or operation of assets or properties or the conduct of its business requires such qualification, and (d) has all requisite Governmental Approvals to operate its business as currently conducted; except in each case referred to clauses (a) (other than with respect to Borrower and any other Credit Party), (b)(i), (c) or (d) above, to the extent that

failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.2 Equity Interests. All of the outstanding Equity Interests in each Subsidiary of Borrower which are required to be pledged pursuant to the Collateral Documents, have been duly authorized and validly issued, are (where required by Requirements of Law to be) fully paid and, in the case of Equity Interests representing corporate interests, are non-assessable and, on the applicable Closing Date, all such Equity Interests owned directly by Borrower or any other Credit Party are owned free and clear of all Liens except for Permitted Liens. Schedule 4.2 of the Disclosure Letter identifies each Person, the Equity Interests in which as of the applicable Closing Date are required to be pledged on the applicable Closing Date (or otherwise within the timing requirements of Sections 5.12, 5.13 or 5.14, if and only to the extent applicable thereto) pursuant to the Collateral Documents.

4.3 Authorization; No Conflict. Except as set forth on Schedule 4.3 of the Disclosure Letter, the execution, delivery and performance by each Credit Party of the Loan Documents to which it is a party, and the consummation of the transactions contemplated thereby, (a) have been duly authorized by all necessary corporate or other organizational action and (b) do not and will not (i) contravene the terms of any of such Credit Party's Operating Documents, (ii) conflict with or result in any breach or contravention of, or require any payment to be made under (A) after giving effect to the payoff and termination of the Existing Credit Agreement, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Credit Party is a party or affecting such Credit Party or the assets or properties of such Credit Party or any of its Subsidiaries or (B) any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which such Credit Party or any of its properties or assets are subject, (iii) result in the creation of any Lien (other than under or otherwise permitted under the Loan Documents) or (iv) violate any Requirements of Law, except, in the cases of clauses (b)(ii) and (b)(iv) above, to the extent that such conflict, breach, contravention, payment or violation could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.4 Government Consents; Third Party Consents. Except as set forth on Schedule 4.4 of the Disclosure Letter, no Governmental Approval or other approval, consent, exemption or authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person (including any counterparty to any Company IP Agreement or other Material Contract) is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Credit Party of this Agreement or any other Loan Document, or for the consummation of the transactions contemplated hereby or thereby, (b) the grant by any Credit Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof) or (d) the exercise by the Collateral Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except in each case of clause (a) through (d) above, for (i) filings necessary to perfect the Liens on the Collateral granted by the Credit Parties to the Collateral Agent for the benefit of Lenders and the other Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect, (iii) filings under state or federal securities laws, (iv) notices required to be delivered by the Collateral Agent or any Lender in connection with, or the cooperation of any third Person (that is not an Affiliate of any Credit Party) that is required for, any exercise of any of the rights or remedies by the Collateral Agent or any Lender, and (v) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.5 Binding Obligation. This Agreement has been duly executed and delivered by Borrower and each other Credit Party that is a party hereto and each other Loan Document has been duly executed and delivered by each Credit Party that is a party thereto, and in each case, constitutes a legal, valid and binding obligation of Borrower or such Credit Party (as applicable), enforceable against Borrower or such Credit Party (as applicable) in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally, by general principles of equity and, solely in the case of the Irish Collateral Documents, any other matters which are set out as qualifications or reservations as to matters of law of general application in any Irish legal opinion delivered to Lenders or the Collateral Agent under or in connection with this Agreement.

4.6 Collateral. In connection with this Agreement, Borrower has delivered to the Collateral Agent a completed certificate signed by a Responsible Officer of Borrower (the "**Perfection Certificate**"). Each Credit Party, jointly and severally, represents and warrants to the Collateral Agent and each Lender that:

(a) (i) its exact legal name is that indicated on the Perfection Certificate and on the signature page thereof; (ii) it is an organization or company of the type and is organized or incorporated in the jurisdiction set forth in the Perfection Certificate; (iii) the Perfection Certificate accurately sets forth its organizational identification number or accurately states that it has none; (iv) the Perfection Certificate accurately sets forth its place of business,

or, if more than one, its chief executive office as well as its mailing address (if different than its chief executive office); (v) except as set forth in the Perfection Certificate, it (and each of its predecessors) has not, in the five (5) years prior to the applicable Closing Date, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (vi) all other information set forth on the Perfection Certificate pertaining to it and its Subsidiaries is accurate and complete in all material respects.

(b) (i) it has good and valid title to, has rights in, and subject to Permitted Subsidiary Distribution Restrictions, Permitted Negative Pledges and the occurrence of the applicable Closing Date, the power to transfer, each item of the Collateral (including, for the avoidance of doubt, each item of Current Company IP) upon which it grants a Lien under any Collateral Document, free and clear of any and all Liens except Permitted Liens and except for such irregularities or defects in title as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change and (ii) as of the applicable Closing Date, it has no deposit accounts maintained at a bank or other depository or financial institution which are not Excluded Accounts other than the deposit accounts described in the Perfection Certificate delivered to the Collateral Agent in connection herewith.

(c) a true, correct and complete list of each pending, registered, issued or in-licensed Patent, Copyright, Trademark and regulatory exclusivity that (x) relates to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory, (y) is, individually or taken together with any other such Patents, Copyrights, Trademarks or regulatory exclusivities, material to the business of Borrower and its Subsidiaries, taken as a whole, and (z) as of the applicable Closing Date, is owned or co-owned by, or exclusively or nonexclusively in-licensed to, any Credit Party or any of its Subsidiaries (collectively, the "**Current Company IP**"), including its name/title, current owner or co-owners (including ownership interest), registration, patent or application number, and registration or application date, in each jurisdiction where issued or filed in the Territory, is set forth on Schedule 4.6(c) of the Disclosure Letter. Except as set forth on Schedule 4.6(c) of the Disclosure Letter:

(i) to the Knowledge of Borrower, (A) each item of Current Company IP owned or co-owned by a Credit Party or any of its Subsidiaries (other than applications of such Current Company IP that have not been issued) is valid, subsisting and enforceable and no item of Current Company IP owned or co-owned by a Credit Party or any of its Subsidiaries has in any respect lapsed or expired, been cancelled, held unpatentable, held unenforceable or been invalidated, or become abandoned (in each case, other than through the lapse, expiration or abandonment of such Current Company IP in the exercise of normal prosecution practices and reasonable business judgment, and no circumstances or grounds exist that would invalidate or reduce, in whole or in part, the validity, enforceability, subsistence or scope of any such Current Company IP, and (B) as of the applicable Closing Date, no written notice has been received challenging the validity, patentability, enforceability, inventorship or ownership (in each case, other than from patent and trademark offices through the normal prosecution practices), or relating to any lapse, expiration, invalidation, cancellation, abandonment or unenforceability, of any item of Current Company IP owned or co-owned by a Credit Party or any of its Subsidiaries (in each case, other than through the lapse, expiration or abandonment of such Current Company IP in the exercise of normal prosecution practices and reasonable business judgment), except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory;

(ii) to the Knowledge of Borrower, (A) each item of Current Company IP that is exclusively or nonexclusively in-licensed from another Person (other than applications of such Current Company IP that have not been issued) is valid, subsisting and enforceable, and no item of Current Company IP that is exclusively or nonexclusively in-licensed by a Credit Party or any of its Subsidiaries has in any respect lapsed or expired, or has been cancelled, held unpatentable, held unenforceable or been invalidated, or has become abandoned (in each case, other than through the lapse, expiration or abandonment of such Current Company IP in the exercise of normal prosecution practices and reasonable business judgment), and no circumstances or grounds exist that would invalidate or reduce, in whole or in part, the validity, enforceability, subsistence or scope of any such Current Company IP, and (B) as of the applicable Closing Date, no written notice has been received challenging the validity, patentability, enforceability, inventorship or ownership, or relating to any lapse, expiration, invalidation, cancellation, abandonment or unenforceability, of any item of Current Company IP that is exclusively or nonexclusively in-licensed by a Credit Party or any of its Subsidiaries (in each case, other than from patent and trademark offices through normal prosecution practices), except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory;

(iii) to the Knowledge of Borrower, except as set forth on Schedule 4.6(c) of the Disclosure Letter, (A) each Person who has or has had any ownership, authorship or inventorship rights in or to (i) owned Current Company IP or (ii) any trade secrets owned by any Credit Party or any of its Subsidiaries that (x) relate to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labeling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory, and (y) is material to the business of Borrower and its Subsidiaries, taken as a whole (collectively, "**Current Company Trade Secrets**"), including each inventor named on the Patents within such owned Current Company IP filed by any Credit Party or any of its Subsidiaries, has executed an agreement assigning his, her or its entire right, title and interest in and to such owned Current Company IP and the inventions, improvements, ideas, discoveries, writings, works of authorship, information and other intellectual property embodied, described or claimed therein and such owned Current Company Trade Secrets to the stated owner thereof, and (B) no such Person has any contractual or other obligation that would preclude or conflict with such assignment or the exploitation of Product in the Territory or entitle such Person to ongoing payments; and

(iv) to the Knowledge of Borrower, there are no issued patents, published patent applications, or published articles or prior art references which could reasonably be expected to materially adversely affect the exploitation of Product in the Territory.

(d) There are no maintenance, annuity or renewal fees that are currently overdue beyond their allotted grace period for any of the Current Company IP which is (i) owned by or exclusively licensed to any Credit Party or any of its Subsidiaries and (ii) (A) with respect to such Current Company IP that such Credit Party or its Subsidiary controls prosecution and maintenance of, or (B) to the Knowledge of Borrower, with respect to such Current Company IP that such Credit Party or its Subsidiary does not control prosecution and maintenance of, nor have any applications or registrations therefor lapsed or become abandoned, been cancelled or expired (in each case, other than through the lapse, expiration or abandonment of such Current Company IP in the exercise of normal prosecution practices and reasonable business judgment). To the Knowledge of Borrower, (x) there are no maintenance, annuity or renewal fees that are currently overdue beyond their allotted grace period for any of the Current Company IP which is non-exclusively licensed to any Credit Party or any of its Subsidiaries, nor (y) have any applications or registrations therefor lapsed or become abandoned, been cancelled or expired (in each case, other than through the lapse, expiration or abandonment of such Current Company IP in the exercise of normal prosecution practices and reasonable business judgment).

(e) There are no unpaid fees, royalties or indemnification payments owed by Borrower or any of its Subsidiaries under any Company IP Agreement that have become due or overdue, or that are reasonably expected to become overdue, except in each case as could not reasonably be expected to materially adversely affect Borrower's or any of its Subsidiary's rights thereunder, other than any such unpaid fees, royalties or indemnification payments that are being contested in good faith by Borrower. Each Company IP Agreement is in full force and effect and, to the Knowledge of Borrower, is legal, valid, binding and enforceable in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, examinership, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability. Except as set forth on Schedule 4.6(f) of the Disclosure Letter, neither Borrower nor or any of its Subsidiaries is in material breach of or material default under any Company IP Agreement to which it is a party or may otherwise be bound, and to the Knowledge of Borrower, no circumstances or grounds exist that would give rise to a claim of material breach or right of rescission, termination, non-renewal, revision, or amendment of any of the Company IP Agreements, including the execution, delivery and performance of this Agreement and the other Loan Documents.

(f) To the Knowledge of Borrower, no payments by any Credit Party or any of its Subsidiaries are overdue to any other Person in respect of the Current Company IP, in each case that could reasonably be expected to materially adversely affect Borrower's or any of its Subsidiary's rights thereunder.

(g) Except as noted on Schedule 4.6(g) of the Disclosure Letter, as of the Effective Date, no Credit Party or any of its Subsidiaries is a party to, nor is it bound by, any Prohibited License.

(h) No Credit Party or any of its Subsidiaries has undertaken or knowingly omitted to undertake any acts, and, to the Knowledge of Borrower, no circumstance or grounds exist that would invalidate or render unenforceable, in whole or in part, (i) the Current Company IP in any manner that could reasonably be expected to materially adversely affect any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory; or (ii) in the case of Current Company IP owned or co-owned by or exclusively or non-exclusively licensed to any Credit Party or any of its Subsidiaries, other than with respect to Permitted Licenses and except as set forth on Schedule 4.6(h) of the Disclosure Letter, a Credit Party's or Subsidiary's entitlement to own or license and exploit such Current Company IP in any manner, except, as of the

applicable Closing Date (after the Tranche A Closing Date), in each case, other than any such Current Company IP that has been determined in the exercise of reasonable business judgment to be immaterial to the exploitation of any Product in the Territory.

(i) Except as set forth on Schedule 4.6(i) of the Disclosure Letter, to the Knowledge of Borrower, there is no product or other technology of any third party that infringes or could reasonably be expected to infringe a Patent within the Current Company IP in a manner that would result in a material adverse effect on the exploitation of Product in the Territory.

(j) Except as set forth on Schedule 4.6(j) of the Disclosure Letter, in each case where an issued Patent within the Current Company IP is owned or co-owned by any Credit Party or its Subsidiaries by assignment, the assignment has been duly recorded with the U.S. Patent and Trademark Office.

(k) Except as set forth on Schedule 4.6(k) of the Disclosure Letter, there are no pending or, to the Knowledge of Borrower, threatened (in writing) claims against Borrower or any of its Subsidiaries alleging (i) that any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory infringes or violates (or in the past infringed or violated), any of the rights of any third parties in or to any Intellectual Property ("**Third Party IP**") or constitutes a misappropriation (or in the past constituted a misappropriation) of any Third Party IP, or (ii) that any Current Company IP is invalid, unpatentable or unenforceable (other than from patent and trademark offices through the normal prosecution practices) except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(l) To the Knowledge of Borrower, the manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory has not in the past infringed or violated and does not infringe or violate any issued or registered Third Party IP and has not in the past constituted and does not constitute a misappropriation of any Third Party IP, except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case of sub-clause (i) and (ii) above, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(m) Except as set forth on Schedule 4.6(m) of the Disclosure Letter, to the Knowledge of Borrower, there are no settlements, covenants not to sue, consents, judgments, orders or similar obligations imposed by a court of law, court of equity or patent or intellectual property office, which: (i) restrict the rights of any Credit Party or any of its Subsidiaries to use any Intellectual Property relating to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory (in order to accommodate any Third Party IP or otherwise), except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory, or (ii) permit any third parties to use any Current Company IP or Current Company Trade Secrets existing as of the Effective Date and on the applicable Closing Date, except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(n) Except as set forth on Schedule 4.6(n) of the Disclosure Letter, to the Knowledge of Borrower, (i) there is no, nor has there been any, infringement or violation by any Person of any of the Current Company IP or Current Company Trade Secrets existing as of the Effective Date and on the applicable Closing Date or any of the rights therein, except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory and (ii) there is no, nor has there been any, misappropriation by any Person of any of the Current Company IP or Current Company Trade Secrets existing as of the Effective Date and on the applicable Closing Date or any of the subject matter thereof, except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(o) Each Credit Party and each of its Subsidiaries (if applicable) has taken commercially reasonable measures customary in the pharmaceutical industry, to protect the confidentiality and value of all Current Company Trade Secrets owned by such Credit Party or any of its Subsidiaries or used or held for use by such Credit Party or any of its Subsidiaries. With respect to such Current Company Trade Secrets, any intentional disclosure by a Credit Party or any of its Subsidiaries of any such Current Company Trade Secrets to any third party has been

pursuant to the terms of a written agreement including appropriate confidentiality, access, use and non-disclosure provisions with such third party.

(p) Except as set forth on Schedule 4.6(p) of the Disclosure Letter, to the Knowledge of Borrower, Product made, used or sold under the Patents within the Current Company IP has been marked with the proper patent notice, except, in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(q) Except as set forth on Schedule 4.6(q) of the Disclosure Letter, to the Knowledge of Borrower, at the time of any shipment of Product in the Territory during the past five (5) years, the units thereof so shipped complied in all material respects with their relevant specifications and were developed and manufactured in all material respects in accordance with applicable current Good Manufacturing Practices, Good Clinical Practices, and Good Laboratory Practices (as applicable), except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the exploitation of Product in the Territory.

(r) With respect to the Current Company IP consisting of Patents, except as set forth on Schedule 4.6(r) of the Disclosure Letter:

(i) to the Knowledge of Borrower, all prior art material to such Patents was adequately disclosed, to the extent such disclosure is required, to the relevant patent office or considered by the respective patent offices during prosecution of such Patents; and

(ii) to the Knowledge of Borrower, no subject matter designated allowable or allowed by the U.S. Patent and Trademark Office of such Patents is subject to any competing conception claims of allowable or allowed subject matter of any patent applications or patents of any third party and have not been the subject of any interference, and such Patents are not and have not been the subject of any re-examination, opposition or any other post-grant proceedings, except in each case for routine patent prosecution proceedings.

(s) The Collateral Documents create in favor of the Collateral Agent, for the benefit of Lenders and the other Secured Parties, a valid and continuing and, upon the making of the filings and the taking of the actions required under the terms of the Loan Documents, perfected Lien on and security interest in the Collateral (in each case, solely to the extent perfection is available under Requirements of Law through the making of such filings and taking of such actions and except to the extent expressly not required to be perfected pursuant to the terms of the Loan Documents), securing the payment of the Obligations, and having priority over all other Liens on and security interests in the Collateral (except Permitted Liens).

4.7 Adverse Proceedings, Compliance with Laws and Settlement Agreements.

(a) As of the Tranche A Closing Date, (i) except as set forth on Schedule 4.7 of the Disclosure Letter, there are no Adverse Proceedings pending or, to the Knowledge of Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against Borrower or any of its Subsidiaries; and (ii) neither Borrower nor any of its Subsidiaries (A) is in violation of any Requirements of Law, excluding any Requirement of Law which is being contested in good faith by appropriate proceedings, or (B) is subject to or in default with respect to any final judgments, orders, writs, injunctions, settlement agreements, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

(b) As of each Closing Date other than the Tranche A Closing Date, (i) except as set forth on Schedule 4.7 of the Disclosure Letter, there are no Adverse Proceedings pending or, to the Knowledge of Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against Borrower or any of its Subsidiaries that, if adversely determined, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change; and (ii) neither Borrower nor any of its Subsidiaries (A) is in violation of any Requirements of Law, excluding any Requirement of Law which is being contested in good faith by appropriate proceedings, where such violation, individually or together with any other such violation, could reasonably be expected to result in a Material Adverse Change, or (B) is subject to or in default with respect to any final judgment, order, writ, injunction, settlement agreement, decree, rule or regulation of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign that, individually or together with any other such judgments, orders, writs, injunctions, settlement agreements, decrees, rules or regulations, could reasonably be expected to result in a Material Adverse Change.

(c) Each of Borrower and its Subsidiaries (and, to Borrower's Knowledge, each other party thereto) is in compliance with the terms of all settlement agreements (relating to any Adverse Proceeding) to which Borrower or any Subsidiary is a party.

4.8 Exchange Act Documents; Financial Statements; Financial Condition; No Material Adverse Change; Books and Records.

(a) The Exchange Act Documents filed by Borrower with the SEC since December 31, 2022, when they were filed with the SEC, conformed in all material respects to the requirements of the Exchange Act, and as of the time they were filed with the SEC, none of such documents contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein (excluding any projections and forward-looking statements, estimates, budgets and general economic or industry data of a general nature), in the light of the circumstances under which they were made, not misleading; provided, that, with respect to projected financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections are not a guarantee of financial performance and are subject to uncertainties and contingencies, many of which are beyond the control of Borrower or any Subsidiary, and neither Borrower nor any Subsidiary can give any assurance that such projections will be attained, that actual results may differ in a material manner from such projections and any failure to meet such projections shall not be deemed to be a breach of any representation or covenant herein).

(b) The Borrower's audited annual financial statements as of December 31, 2022 (including the related notes thereto) of Borrower and its Subsidiaries included in the Exchange Act Documents present fairly in all material respects the consolidated financial condition of Borrower and such Subsidiaries and their consolidated results of operations as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified. Such financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods covered thereby, except as otherwise disclosed therein and, in the case of unaudited, interim financial statements, subject to normal year-end audit adjustments and the exclusion of certain footnotes.

(c) Borrower acknowledges that its management is responsible for the preparation and fair presentation of the financial statements of Borrower and each of its Subsidiaries delivered to the Collateral Agent pursuant to Section 5.2(a), in each case, in conformance with GAAP. Borrower has, suitable for a company of its size and stage of development, designed, implemented and maintained internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

(d) Since December 31, 2022, there has not occurred any change or event that has had or could reasonably be expected to have, either alone or in conjunction with any other change(s), event(s) or failure(s), a Material Adverse Change.

(e) The Books of Borrower and each of its Subsidiaries in existence immediately prior to the Effective Date and each applicable Closing Date contain full, true and correct entries of all dealings and transactions in relation to its business and activities in conformity with GAAP and Requirements of Law in all material respects.

4.9 Solvency. The Credit Parties and their Subsidiaries, on a consolidated basis, are Solvent. Without limiting the generality of the foregoing, there has been no proposal made or resolution adopted by any competent corporate body for the dissolution or liquidation of any Credit Party.

4.10 Taxes. All U.S. federal, state, local and non-U.S. income and other material Tax returns and reports (or extensions thereof) of each Credit Party and each of its Subsidiaries required to be filed by any of them have been timely filed and are correct in all material respects, except where the failure to file or the lack of accuracy has not resulted in, and is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Change. All Taxes, assessments, deposits and contributions which are due and payable by any Credit Party or any of its Subsidiaries or levied or imposed upon them or any of their properties, assets or in respect of any of their income, businesses or franchises have been paid when due and payable, except where such payment can be lawfully withheld and the validity or amount thereof is being contested in good faith by appropriate proceedings; provided that no such Tax or any claim for Taxes that have become due and payable shall be required to be paid if, in each case, (i) the applicable Credit Party has set aside on its books adequate reserves therefor in conformity with GAAP, or (ii) the failure to pay such Taxes, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Change. To the Knowledge of such Credit Party, there is no pending or proposed Tax assessment against any Credit Party or any of its Subsidiaries that would, if made, result in a Material Adverse Change.

4.11 Environmental Matters. Neither Borrower nor any of its Subsidiaries nor any of their respective Facilities or operations is subject to any outstanding written order, consent decree or settlement agreement with any

Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. There are and, to the Knowledge of Borrower, have been, no conditions, occurrences, or Hazardous Materials Activities that would reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. To the Knowledge of Borrower, no predecessor of Borrower or any of its Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility, which would reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change (but, for the avoidance of doubt, neither Borrower nor any of its Subsidiaries has, directly or indirectly, undertaken any investigation of or made any inquiries to, or relating to, any of its or its Subsidiaries' predecessors), and neither Borrower's nor any of its Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260 – 270 or any foreign or United States state equivalents, which would reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. No event or condition has occurred or is occurring with respect to any Credit Party relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity that, individually or in the aggregate, has resulted in, or could reasonably be expected to result in, a Material Adverse Change.

4.12 Material Contracts. As of the applicable Closing Date, after giving effect to the consummation of the transactions contemplated by this Agreement, except as described on Schedule 4.12 of the Disclosure Letter, each Material Contract is a valid and binding obligation of the applicable Credit Party and, to the Knowledge of Borrower, each other party thereto, and is in full force and effect, and neither the applicable Credit Party nor, to the Knowledge of such Credit Party, any other party thereto is in material breach thereof or default thereunder, except where such breach or default (which default has not been cured or waived) could not reasonably be expected to give rise to any cancellation, termination or acceleration right of the applicable counterparty thereto. As of the applicable Closing Date, except as described on Schedule 4.12 of the Disclosure Letter, no Credit Party or any of its Subsidiaries has received any written notice from any party to any Material Contract asserting or to the Knowledge of Borrower, threatening to assert, circumstances that could reasonably be expected to result in the cancellation, termination or invalidation of any Material Contract (or any provision thereof) or the acceleration of such Credit Party's or Subsidiary's obligations thereunder.

4.13 Regulatory Compliance. No Credit Party is or is required to be registered as, or is a company "controlled" by, an "investment company" as defined in, or is subject to regulation under, the Investment Company Act of 1940, as amended. Except as could not reasonably be expected to result in a Material Adverse Change, each Credit Party has complied with the Federal Fair Labor Standards Act (and any foreign or United States state equivalent). Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, each Plan is in compliance with the applicable provisions of ERISA, the IRC and other Requirements of Law, respectively. (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) neither any Credit Party nor any ERISA Affiliate 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 Section 4201 *et seq*. of ERISA with respect to a Multiemployer Plan; and (iii) neither any Credit Party nor any ERISA Affiliate has engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA, except, with respect to each of clauses (i), (ii) and (iii) above, as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change.

4.14 Margin Stock. No Credit Party is engaged principally, or as one of its important activities, in extending credit for the purpose of, whether immediate or ultimate, purchasing or carrying Margin Stock. No Credit Party owns any Margin Stock. No Credit Party or any of its Subsidiaries has taken or permitted to be taken any action that might cause any Loan Document to violate Regulation T, U or X of the Federal Reserve Board.

4.15 Subsidiaries; Capitalization. Schedule 4.15 of the Disclosure Letter includes a complete and accurate list of Borrower and each of its Subsidiaries, setting forth (a) in the case of each Credit Party and JPR Royalty Sub, its name and jurisdiction of incorporation, organization or formation, (b) in the case of each Credit Party (other than Borrower) and JPR Royalty Sub, the number of authorized and issued shares (or equivalent) of each class (where applicable) of its Equity Interests outstanding, (c) the percentage of its outstanding shares of each class owned (directly or indirectly) by Borrower or any other Credit Party and the certificate numbers(s) for the same (if any), and (d) the number and effect, if exercised, of all of its outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect to Equity Interests issued by any such Credit Party

(other than Borrower) or JPR Royalty Sub. Except as set forth on Schedule 4.15 of the Disclosure Letter, each Credit Party is a Registered Organization.

4.16 Employee Matters. Neither Borrower nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to result in a Material Adverse Change. There is (a) no unfair labor practice complaint pending against Borrower or any of its Subsidiaries or, to the Knowledge of Borrower, threatened in writing against any of them in each case before the National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is pending against Borrower or any of its Subsidiaries or, to the Knowledge of Borrower, threatened in writing against any of them, (b) no strike or work stoppage in existence or, to the Knowledge of Borrower, threatened in writing involving Borrower or any of its Subsidiaries, and (c) to the Knowledge of Borrower, no union representation question existing with respect to the employees of Borrower or any of its Subsidiaries and, to the Knowledge of Borrower, no union organization activity that is taking place that in each case specified in any of clauses (a), (b) and (c) above, individually or taken together with any other matter specified in clause (a), (b) or (c) above, could reasonably be expected to result in a Material Adverse Change.

4.17 Full Disclosure. None of the documents, certificates or written statements (excluding any projections and forward-looking statements, estimates, budgets and general economic or industry data of a general nature) furnished or otherwise made available to the Collateral Agent or any Lender by or on behalf of any Credit Party for use in connection with the transactions contemplated hereby (in each case, taken as a whole and as modified or supplemented by other information so furnished promptly after the same becomes available) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, as of the time when made or delivered, not misleading in light of the circumstances in which the same were made; provided, that, with respect to projected financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections are not a guarantee of financial performance and are subject to uncertainties and contingencies, many of which are beyond the control of Borrower or any Subsidiary, and neither Borrower nor any Subsidiary can give any assurance that such projections will be attained, that actual results may differ in a material manner from such projections and any failure to meet such projections shall not be deemed to be a breach of any representation or covenant herein). To the Knowledge of Borrower, there are no facts (other than matters of a general economic or industry nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change and that have not been disclosed herein or in such other documents, certificates and written statements furnished or made available to the Collateral Agent or any Lender for use in connection with the transactions contemplated hereby.

4.18 Anti-Corruption Laws; Anti-Money Laundering Laws; Sanctions; Export and Import Laws.

(a) None of Borrower, its Subsidiaries, their directors or officers, or, to the Knowledge of Borrower, any agent or employee of Borrower or any Subsidiary of Borrower has, at any time in the last five (5) years, (i) used any corporate funds of Borrower or any Subsidiary of Borrower for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (ii) made any direct or, to the Knowledge of Borrower, indirect unlawful payment to any foreign or domestic government official or employee from corporate funds of Borrower or any Subsidiary of Borrower, (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "**FCPA**"), the U.K. Bribery Act 2010 ("**UKBA**") or any other applicable anti-corruption laws ("**Anti-Corruption Laws**") or (iv) made any bribe, improper rebate, payoff, influence payment, kickback or other unlawful payment, and no part of the proceeds of any Credit Extension will be used, directly or, to the Knowledge of Borrower, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office or anyone else, in order to obtain, retain or direct business, or to obtain any improper advantage, in violation of Anti-Corruption Laws. No action, suit or proceeding by or before any Governmental Authority or any arbitrator involving Borrower or any of its Subsidiaries with respect to Anti-Corruption Laws is pending or to the Knowledge of Borrower, threatened in writing nor, to the Knowledge of Borrower, is there a basis for such action, suit or proceeding.

(b) (i) The operations of Borrower and its Subsidiaries are and have been conducted at all times in the last five (5) years in accordance with applicable financial recordkeeping and reporting requirements of the Bank Secrecy Act of 1970 (as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001) and the anti-money laundering laws, rules and regulations of each jurisdiction (foreign or domestic) in which Borrower or any of its Subsidiaries is subject to such jurisdiction's Requirements of Law (collectively, the "**Anti-Money Laundering Laws**") and (ii) no action, suit or proceeding by or before any Governmental Authority or any arbitrator involving Borrower or any of its Subsidiaries with respect to the Anti-Money Laundering Laws is pending or to the Knowledge of Borrower, threatened in writing.

(c) None of Borrower, its Subsidiaries, or, their directors, officers or, to the Knowledge of Borrower, any employee or agent of Borrower or any Subsidiary of Borrower is, or is fifty percent (50.0%) or more owned or otherwise controlled by individuals or entities that are, the target or subject of any economic, trade or financial sanctions or restrictive measures administered and enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), the U.S. Department of State, the United Nations Security Council, the European Union and each member state thereof or His Majesty's Treasury of the United Kingdom (collectively "**Sanctions**"). Neither Borrower nor any of its Subsidiaries: (i) has assets located in, or otherwise directly or indirectly derives revenues from or engages in, investments, dealings, activities, or transactions in or with, any Sanctioned Country; or (ii) directly or indirectly derives revenues from, conducts any business or engages in investments, dealings, activities, or transactions with, any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person. Borrower will not, directly or indirectly (including through an agent or any other Person), use the proceeds of any Term Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for (i) the purpose of financing the activities of any Person that is the target or subject of Sanctions or in any country or territory that at the time of such funding, is the subject of Sanctions, (ii) use in any Sanctioned Country, or (iii) any purpose that could cause any Person to be in violation of Sanctions. No action, suit or proceeding by or before any Governmental Authority or any arbitrator involving Borrower or any of its Subsidiaries with respect to Sanctions is pending or to the Knowledge of Borrower, threatened in writing, nor, to the Knowledge of Borrower, is there a basis for such action, suit or proceeding.

(d) Borrower will not, directly or, to the Knowledge of Borrower, indirectly (including through an agent or any other Person), use any of the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds of any Credit Extension to any Subsidiary, joint venture partner or other Person, (i) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office or anyone else, in order to obtain, retain or direct business, or to obtain any improper advantage, in violation of Anti-Corruption Laws, (ii) in violation of any Anti-Money Laundering Laws, or (iii) in violation of Sanctions.

(e) Borrower, its Subsidiaries, their respective officers and directors, and to the Knowledge of Borrower, their respective agents and employees, are in compliance in all respects with Sanctions. Borrower and its Subsidiaries have instituted and maintain policies and procedures reasonably designed to ensure compliance with Sanctions, Anti-Money Laundering Laws, Export and Import Laws, and applicable anti-corruption laws, including the FCPA and UKBA.

(f) Borrower and its Subsidiaries are in compliance in all material respects with applicable Export and Import Laws.

4.19 Health Care Matters.

(a) *Compliance with Health Care Laws*. Except as set forth on Schedule 4.19(a) of the Disclosure Letter, to the Knowledge of Borrower, each Credit Party and each of its Subsidiaries and each officer, Affiliate, and employee acting on behalf of such Credit Party or any of its Subsidiaries, is in compliance in all material respects with all applicable Health Care Laws.

(b) *Compliance with Regulatory Requirements*. Each Credit Party and, to the Knowledge of Borrower, each of its Subsidiaries, are in compliance with applicable FDA Laws, including the Food, Drug, and Cosmetic Act (21 U.S.C. §§ 356, 360aa-ff) and 21 C.F.R. Part 316, that apply to an Orphan Drug designation, or a Fast Track, Breakthrough Therapy and Priority Review designation, in each case as applicable to any such designation granted to a Product, except for instances of noncompliance that are not material and are listed in Schedule 4.19(b) of the Disclosure Letter; and are otherwise in compliance in all material respects with all applicable FDA Laws including the Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) (the "**FDCA**", the Public Health Service Act (42 U.S.C. § 262 through § 263) (the "**PHSA**") and regulations promulgated thereunder; EU Laws including the EU Community Code on medicinal products (Directive 2001/83/EC), the EMA Regulation (Regulation (EC) No 726/2004), the Manufacturing Directive (Commission Directive 2003/94/EC), the Clinical Trials Regulation (Regulation (EU) No 536/2014), and related implementing legislation of individual EU Member States and related guidance at EU level and national level in individual EU Member States; U.K Laws (including the Medicines Act 1968, Human Medicines Regulations 2012 and related implementing legislation and regulations promulgated thereunder); as all the foregoing relate to research, development, testing, approval, licensure, clearance, authorization, designation, exclusivity, post-approval (or post-licensure, post-authorization, or post-clearance, as applicable) monitoring and commitments, reporting, manufacture, production, packaging, labeling, use, commercialization, marketing, promotion, advertising, importing, exporting, storage, transport, offer for sale, distribution or sale of Product in the Territory. Any Product distributed or sold in the Territory at all times during the past five (5) years has been (i) manufactured and developed in all material respects in accordance with current

Good Manufacturing Practices, Good Clinical Practices, and Good Laboratory Practices (as applicable), and (ii) if and to the extent such Product is required to be approved or licensed by the relevant Governmental Authority pursuant to FDA Laws, EU Laws, U.K. Laws or other foreign law equivalents, in order to be legally marketed in the Territory for such Product's intended uses, such Product has been approved or licensed for such intended uses, meets in all material respects any additional conditions of approval, clearance, authorization, or licensure by the competent Governmental Authority, and no inquiries regarding material issues have been initiated by any competent Governmental Authority, except in each case referred to in sub-clauses (i) or (ii) above, to the extent that any failure to ensure the foregoing could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(c) *Applicability of Controlled Substances Act*. Product does not contain a controlled substance (as that term is defined under the Controlled Substances Act (21 U.S.C. § 801 et seq.)).

(d) *Material Statements*. Within the past five (5) years, neither any Credit Party, nor, to the Knowledge of Borrower, any Subsidiary or any officer or employee or Affiliate of any Credit Party or Subsidiary in its capacity as a Subsidiary or as an officer, employee or Affiliate of a Credit Party or Subsidiary (as applicable), nor, to the Knowledge of Borrower, any agent of any Credit Party or Subsidiary, (i) has made an untrue statement of a material fact or a fraudulent statement to any Governmental Authority under any Health Care Law, (ii) has failed to disclose a material fact to any Governmental Authority under any Health Care Law, or (iii) has otherwise committed an act, made a statement or failed to make a statement that, at the time such statement or disclosure was made (or, in the case of such failure, should have been made) or such act was committed, could reasonably be expected to constitute a material violation of any Health Care Law.

(e) *Proceedings; Audits*. Except as has been set forth on Schedule 4.19(e) of the Disclosure Letter, there is no Adverse Proceeding pending or, to the Knowledge of Borrower, threatened in writing, against any Credit Party or any of its Subsidiaries relating to any allegations of non-compliance with any Health Care Laws, FDA Laws or EU Laws, or U.K. Laws.

(f) *Recalls, Safety Notices, Etc*. Within the last five (5) years, except as has been set forth on Schedule 4.19(f) of the Disclosure Letter, neither any Credit Party nor any of its Subsidiaries has initiated or otherwise engaged in any recalls, field notifications, safety warnings, "dear doctor" letters, investigator notices, safety alerts or other material notices of action, including as a result of any Risk Evaluation and Mitigation Strategy (or foreign equivalent) proposed or enforced by the FDA, the European Commission, the EMA, the competent authorities of the EU Member States, the MHRA or any other equivalent foreign Governmental Authority relating to an alleged lack of safety or regulatory compliance of Product. Except as set forth on Schedule 4.19(f), to the Knowledge of Borrower, there is no reasonable expectation that there are grounds for imposition of a clinical hold with respect to Product, as described in 21 C.F.R. § 312.42, or a withdrawal of an Investigational New Drug Application, as defined in 21 C.F.R. § 312.38, for Product.

(g) *Preclinical Studies / Clinical Trials*. All pre-clinical and clinical studies relating to Product conducted by or on behalf of any Credit Party or any of its Subsidiaries have been, or are being, conducted in compliance in all material respects with all applicable Requirements of Law, including the applicable requirements of FDA Laws, EU Laws, U.K. Laws, Good Laboratory Practices, Good Clinical Practices, regulations under the Common Rule, including regulations under 45 C.F.R. part 46, and the Animal Welfare Act and applicable experimental protocols, procedures and controls, United States state equivalents and equivalent foreign laws and applicable regulations. Except as set forth on Schedule 4.19(g) of the Disclosure Letter, during the past five (5) years, no clinical trial involving Product conducted by or on behalf of any Credit Party or any of its Subsidiaries has been terminated or suspended by any Regulatory Agency and neither any Credit Party nor any of its Subsidiaries has received any notice that the FDA (or foreign equivalent), any other Governmental Authority or any institutional review board, ethics committee or safety monitoring committee has recommended, initiated or, to the Knowledge of Borrower threatened to initiate any action to suspend or terminate any clinical trial conducted by or on behalf of any Credit Party or any of its Subsidiaries or to otherwise restrict the preclinical research on or clinical study of Product. None of the safety issues raised by a Governmental Authority in the context of a clinical hold (or foreign equivalent) placed on products under development by any Credit Party or any of its Subsidiaries could reasonably be expected to materially and adversely impact the research, development, testing, manufacture, approval, clearance, authorization, exclusivity, licensure, designation, post-approval (or post-licensure, post-authorization or post-clearance, as applicable) monitoring and commitments, reporting, production, packaging, labeling, use, commercialization, marketing, promotion, advertising, importing, exporting, storage, transport, offer for sale, distribution or sale of Product in the Territory. Any clinical hold (or foreign equivalent) placed on products under development by any Credit Party or any of its Subsidiaries, or terminations of clinical trials by any Credit Party or any of its Subsidiaries, could not reasonably be expected to materially and adversely impact the financial condition of any Credit Party and its Subsidiaries (taken as a whole), or the ability of any Credit Party and its Subsidiaries (taken as a whole) to fulfill

the payment obligations under the Loan Agreement or any other Loan Documents or the Royalty Revenue Documents.

(h) *Advertising / Promotion*. For the past five (5) years, each Credit Party and, to the Knowledge of Borrower, each of its Subsidiaries, officers, employees and agents has advertised, promoted, marketed and distributed Product in the Territory in compliance in all material respects with FDA Laws, EU Laws, U.K. Laws and other applicable Requirements of Law. Except as set forth on Schedule 4.19(h) of the Disclosure Letter, for the past five (5) years, neither any Credit Party nor, to the Knowledge of Borrower, any of its Subsidiaries, officers, employees or agents has received any written notice (including any notice under 21 C.F.R. § 316.36) of or is subject to any civil, criminal or administrative action, suit, demand, claim, complaint, hearing, investigation, demand letter, warning letter, untitled letter, proceeding or request for information from the FDA (or foreign equivalents) or any other Governmental Authority concerning noncompliance with any FDA Laws, EU Laws, U.K. Laws or other Requirements of Law with regard to advertising, promoting, marketing or distributing Product in the Territory.

(i) *Recordkeeping / Reporting*. Each Credit Party and, to the Knowledge of Borrower, each of its Subsidiaries, has maintained records relating to any aspect of the research, development, testing, manufacture, recall, production, handling, labeling, packaging, storage, supply, promotion, distribution, marketing, commercialization, import, export and sale of Product in the Territory in compliance in all material respects with FDA Laws, EU Laws, U.K. Laws, Health Care Laws and other applicable Requirements of Law, and each Credit Party and, to the Knowledge of Borrower, each of its Subsidiaries, has submitted to the FDA (or foreign equivalents) and other Governmental Authorities in a timely manner all material notices and annual or other reports required to be made, including adverse experience reports, annual reports (including annual reports specific to holders of Orphan Drug designation), and safety reports required to be made for Product.

(j) *Prohibited Transactions; No Whistleblowers*. Except as set forth on Schedule 4.19(j) of the Disclosure Letter, within the past five (5) years, to the Knowledge of Borrower, neither any Credit Party, any Subsidiary, any officer or employee or Affiliate of a Credit Party or Subsidiary, nor any other Person acting on behalf of any Credit Party or any Subsidiary, directly or indirectly: (i) has offered or paid any remuneration, in cash or in kind, to, or made any financial arrangements with, any past, present or potential patient, supplier, physician or contractor, in order to illegally obtain business or payments from such Person in material violation of any Health Care Law; (ii) has given or made, or is party to any illegal agreement to give or make, any illegal gift or gratuitous payment of any kind, nature or description (whether in money, property or services) to any past, present or potential patient, supplier, physician or contractor, or any other Person in material violation of any Health Care Law; (iii) has given or made, or is party to any agreement to give or make on behalf of any Credit Party or any of its Subsidiaries, any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was a material violation of the laws of any Governmental Authority having jurisdiction over such payment, contribution or gift; (iv) has established or maintained any unrecorded fund or asset for any purpose or made any materially misleading, false or artificial entries on any of its books or records for any reason; or (v) has made, or is party to any agreement to make, any payment to any Person with the intention or understanding that any part of such payment would be in material violation of any Health Care Law. To the Knowledge of Borrower, there are no actions pending or threatened (in writing) against any Credit Party or any of its Subsidiaries or any of their respective Affiliates under any foreign, federal or United States state healthcare whistleblower statute, including under the False Claims Act of 1863 (31 U.S.C. § 3729 et seq.), except, as of each Closing Date other than the Tranche A Closing Date, individually or together with any other such actions, to the extent as could reasonably be expected to result in a Material Adverse Change.

(k) *Exclusion*. Except as set forth on Schedule 4.19(k) of the Disclosure Letter, neither Borrower, nor to the Knowledge of Borrower, any other Credit Party or any Subsidiary or any officer, employee or Affiliate of a Credit Party or Subsidiary having authority to act on behalf of any Credit Party or any Subsidiary, is or, to the Knowledge of Borrower, has been threatened in writing to be: (i) excluded from any Governmental Payor Program pursuant to 42 U.S.C. § 1320a-7b and related regulations, to the extent applicable; (ii) "suspended" or "debarred" from selling any products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation relating to debarment and suspension applicable to federal government agencies generally (42 C.F.R. Subpart 9.4), or other U.S. Requirements of Law; (iii) debarred, disqualified, suspended or excluded from participation in Medicare, Medicaid or any other Governmental Payor Program or is listed on the General Services Administration list of excluded parties, to the extent applicable; (iv) debarred by the FDA (or foreign equivalent); or (v) a party to any other action or proceeding by any Governmental Authority that would prohibit the applicable Credit Party or Subsidiary from distributing or selling Product in the Territory or providing any services to any governmental or other purchaser pursuant to any Health Care Laws.

(l) *Health Information*. Each Credit Party and, to the Knowledge of Borrower, each of its Subsidiaries to the extent applicable, has implemented written policies and procedures as well as training that is reasonable and customary in the pharmaceutical industry, satisfies the requirements of all applicable Requirements of Law (including HIPAA, Section 5 of the FTC Act, CCPA, CMIA, GDPR and APPI, as applicable) and is otherwise designed to assure continued compliance and to detect non-compliance, in each case, in all material respects. Neither any Credit Party nor, to the Knowledge of Borrower, any Subsidiary that is not a Credit Party is a "covered entity" or "business associate" as defined in HIPAA (45 C.F.R. § 160.103).

(m) *Corporate Integrity Agreement*. Neither any Credit Party or Subsidiary or any of their respective Affiliates, nor to the Knowledge of Borrower, any of their respective officers, directors, managing employees or agents (as those terms are defined in 42 C.F.R. § 1001.1001 or foreign equivalents), is a party to or has any ongoing reporting or disclosure obligations under, or is otherwise subject to, any corporate integrity agreement, monitoring agreement, deferred prosecution agreement, consent decree, settlement order or other similar agreements, or any order, in each case imposed by any Governmental Authority, concerning compliance with any laws, rules or regulations, issued under or in connection with a Governmental Payor Program.

4.20 Regulatory Approvals or Licensures.

(a) Except as set forth on Schedule 4.20(a) of the Disclosure Letter, each Credit Party and each Subsidiary involved in any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory has all Regulatory Approvals or Licensures material to the conduct of its business and operations.

(b) Each Credit Party, each Subsidiary and, to the Knowledge of Borrower, each licensee of a Credit Party or a Subsidiary of any Intellectual Property relating to Product, is in compliance with, and at all times during the past five (5) years, has complied with all applicable foreign, federal, state and local laws, rules and regulations governing any aspect of the research, development, testing, approval, licensure, clearance, authorization, post-approval (or post-licensure, post-authorization, or post-clearance, as applicable) monitoring and commitments, reporting, manufacture, production, packaging, labeling, use, commercialization, designation, exclusivity, marketing, promotion, advertising, importing, exporting, storage, transport, offer for sale, distribution or sale of Product in the Territory, including all such regulations promulgated by each applicable Regulatory Agency (including the FDA, the European Commission, the EMA, the competent authorities of the EU Member States and the MHRA or any other applicable foreign equivalents), except where any instance of failure to comply with any such laws, rules or regulations could not, whether individually or taken together with any other such failures, reasonably be expected to result in a Material Adverse Change. Except as set forth on Schedule 4.20(b) of the Disclosure Letter, within the last five (5) years, no Credit Party or its Subsidiaries has received any written notice from any Regulatory Agency citing action or inaction by any Credit Party or any of its Subsidiaries that would constitute a violation of any applicable foreign, federal, state or local laws, rules or regulations, including a Warning Letter or Untitled Letter from FDA (or equivalent communication from any other Regulatory Agency).

4.21 Supply and Manufacturing.

(a) Except as set forth on Schedule 4.21(a) of the Disclosure Letter, to the Knowledge of Borrower, Product at all times during the past five (5) years has been manufactured in sufficient quantities and of a sufficient quality to satisfy demand of Product in the Territory, without the occurrence of any event or any series of related events causing inventory of Product to have become exhausted prior to satisfying such demand. To the Knowledge of Borrower, no event or circumstance (or series of related events or circumstances) has occurred that has caused or could reasonably be expected to cause inventory of Product to become exhausted in any calendar year prior to satisfying the sales demand (if any) of Product in the Territory in such calendar year.

(b) Except as set forth on Schedule 4.21(b) of the Disclosure Letter, to the Knowledge of such Credit Party, no event or circumstance (or series of related events or circumstances) has occurred or, in the reasonable business judgment of Borrower, is reasonably likely to occur, that would cause or could reasonably be expected to cause Product to not be manufactured in any calendar year in sufficient quantities to satisfy or exceed the net sales amount for such calendar year set forth in the Product Revenue Forecast.

(c) Except as set forth on Schedule 4.21(c) of the Disclosure Letter, to the Knowledge of Borrower, (i) no manufacturer (including a contract manufacturer), licensing partner, or producer of Product has been during the last five (5) years or is currently subject to a material Regulatory Agency shutdown or voluntary shutdown, restriction or import or export prohibition, (ii) no manufacturer (including a contract manufacturer), licensing partner, or producer of Product has received in the past five (5) years or is currently subject to (1) a FDA Form 483 or (2) other written Regulatory Agency notice of inspectional observations, Warning Letter, Untitled Letter or request to make changes to Product that could reasonably be expected to impact Product, in either case of

sub-clause (1) or (2) above with respect to any facility manufacturing or producing Product for import, export, distribution or sale in the Territory, , and (iii) with respect to each such FDA Form 483 received or other written Regulatory Agency notice (if any), to the Knowledge of Borrower all deficiencies relating to Good Manufacturing Practice requirements documented therein, and any disputes regarding any such deficiencies, have been corrected or otherwise resolved.

(d) Except as disclosed in Schedule 4.21(d) of the Disclosure Letter, no Credit Party or any of its Subsidiaries has received any written or, to the Knowledge of Borrower, other notice from any party to any Manufacturing Agreement containing any indication by or intent or threat in writing of, such party to reduce or cease, in any material respect, the supply of Product in the Territory, or of any active pharmaceutical ingredient incorporated therein, through calendar year 2028 (or such earlier date in accordance with the terms and conditions of such Manufacturing Agreement, as applicable).

4.22 Cybersecurity and Data Protection.

(a) Except as set forth in Schedule 4.22(a) of the Disclosure Letter, to the Knowledge of Borrower, the information technology systems used in the business of each of Borrower and its Subsidiaries ("**Systems**") operate and perform in all material respects as required to permit each of Borrower and its Subsidiaries to conduct their respective businesses as presently conducted in their respective Territory. To the Knowledge of Borrower, no System contains any material ransomware, disabling codes or instructions, spyware, Trojan horses, worms, viruses or other software routines that are designed or intended to delete, destroy, disable, interfere with, perform unauthorized modifications to, or provide unauthorized access to any data, files, software, system, network, or other device. Borrower and its Subsidiaries have and maintain back-up systems, consistent with the industry in which Borrower and each of its Subsidiaries operate and the size and condition of Borrower and its Subsidiaries, designed to provide continuing availability of the material functionality provided by the Systems in the event of any malfunction of, or other event interrupting access to or the functionality of, such Systems. Borrower and its Subsidiaries use commercially reasonable efforts to promptly implement material security patches that are generally available for the Systems.

(b) Except as set forth on Schedule 4.22(b) of the Disclosure Letter, Borrower and each of its Subsidiaries has implemented and maintains a commercially reasonable, enterprise-wide privacy and information security program ("**Security Program**") with plans, policies, and procedures for privacy, physical and cyber security, disaster recovery, business continuity, incident detection, and incident response, and that includes commercially reasonable and appropriate administrative, technical and physical safeguards designed to protect the integrity and availability of the Systems, consistent with the industry in which Borrower and each of its Subsidiaries operate and the size and condition of Borrower and its Subsidiaries, and to protect against (i) any unauthorized, accidental, or unlawful access to or acquisition, use, disclosure, transmission, retention, processing, loss, destruction, or modification of Personal Data that would require notification to any affected individuals or any Governmental Authority under any applicable Data Protection Laws (each, a "**Personal Data Breach**"), (ii) any unauthorized, accidental, or unlawful access to or acquisition, use, disclosure, or loss of Sensitive Information that is not Personal Data, and (iii) any security incidents that would result in unauthorized, accidental, or unlawful access to or acquisition, use, control, disruption, destruction, or modification of any of the Systems (including cyber-attacks) that would reasonably be expected to result in a material and adverse effect on the operation of Borrower's or any of its Subsidiaries' business operations as currently conducted (sub-clauses (i) through (iii), collectively, "**Security Incidents**").

(c) Borrower and each of its Subsidiaries has conducted commercially reasonable privacy and security audits and penetration tests at reasonable intervals on all Systems that maintain, store, access, or process Sensitive Information, in each case consistent with the industry in which Borrower and each of its Subsidiaries operate and the size and condition of Borrower and its Subsidiaries, taken as a whole. Except as set forth on Schedule 4.22(c) of the Disclosure Letter, Borrower and each of its Subsidiaries has taken commercially reasonable steps to address and remediate all material privacy or data security issues identified as "critical," "high risk," or similar level of risk rating raised in any such audits or penetration tests (including any third party audits of the Systems).

(d) Borrower and each of its Subsidiaries has conducted commercially reasonable privacy and data security diligence, consistent with the industry in which Borrower and each of its Subsidiaries operate and the size and condition of Borrower and its Subsidiaries, on all vendors (including CROs, CMSs and other service providers and contractors) that (i) collect, create, receive, access, maintain, store, or otherwise process Sensitive Information for or on behalf of Borrower or any of its Subsidiaries, or (ii) access or maintain the Systems. Except as set forth on Schedule 4.22(d) of the Disclosure Letter, neither Borrower nor any of its Subsidiaries has, in the past five (5) years, received notice from any vendor that such vendor experienced a Security Incident impacting Borrower's or any of its Subsidiaries' Sensitive Information.

(e) Except as set forth on Schedule 4.22(e) of the Disclosure Letter, to the Knowledge of Borrower, neither Borrower nor any of its Subsidiaries, has in the past five (5) years suffered any (i) Personal Data Breaches, or (ii) other Security Incidents that could reasonably be expected to have a material and adverse effect on Borrower's or any of its Subsidiaries' business operations, such as a material disruption of drug development, manufacturing or commercialization programs relating to Product.

(f) Except as set forth on Schedule 4.22(f) of the Disclosure Letter, Borrower and each of its Subsidiaries is in material compliance with the requirements of (i) their respective Security Programs, (ii) their respective contractual obligations regarding privacy, security, or notification of breaches of Personal Data, (iii) their respective contractual non-disclosure obligations, (iv) their respective publicly available privacy notices and policies, and (v) all applicable Data Protection Laws.

(g) Except as set forth on Schedule 4.22(g) of the Disclosure Letter, in the past five (5) years: (i) neither Borrower nor any of its Subsidiaries has received any written third party claims or, to the Knowledge of Borrower, any threat (in writing) of a third party claim, related to any Personal Data Breaches or other Security Incidents; and (ii) neither Borrower nor any of its Subsidiaries has received any written notice of any claims or investigations (including investigations by any Governmental Authority) relating to any Personal Data Breaches or other Security Incidents, except, in each case of sub-clauses (i) and (ii) above as could not reasonably be expected to be material to Borrower and its Subsidiaries, taken as a whole.

(h) In the past five (5) years, Borrower and each of its Subsidiaries has maintained all database registrations required under applicable Data Protection Laws material to Borrower and its Subsidiaries.

4.23 Additional Representations and Warranties.

(a) As of the Tranche A Closing Date, except as set forth on Schedule 4.23(a) of the Disclosure Letter, after giving effect to consummation of the transactions contemplated by this Agreement on the Tranche A Closing Date, (i) there is no Indebtedness for borrowed money owed to Borrower or any of its Subsidiaries other than Permitted Indebtedness or Permitted Investments, or owed by Borrower or any of its Subsidiaries, other than Permitted Indebtedness, and (ii) all Indebtedness and any and all other amounts outstanding under the Existing Credit Agreement are paid or repaid in full, no further extension of credit is available thereunder and all Liens on or security interests in any and all collateral securing the payment of any such Indebtedness and any guaranty and other obligation of Borrower or any of its Subsidiaries thereunder in favor of any Person have been terminated.

(b) As of each Closing Date other than the Tranche A Closing Date, there is no Indebtedness for borrowed money (x) owed to Borrower or any of its Subsidiaries other than Permitted Indebtedness or Permitted Investments, or (y) owed by Borrower or any of its Subsidiaries other than Permitted Indebtedness.

(c) Except as set forth on Schedule 4.23(b) of the Disclosure Letter, as of the Effective Date and the Tranche A Closing Date, neither Borrower nor any of its Subsidiaries are party to, or otherwise bound by, any Hedging Agreements.

(d) As of each applicable Closing Date, no Credit Party organized in Ireland that is not then a party to the Security Agreement in the capacity of a grantor thereunder owns, co-owns or licenses-in any asset or property in the U.S.

4.24 Centre of Main Interests and Establishments.

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), with respect to each Credit Party that is incorporated in the European Union, its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its jurisdiction of incorporation and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

4.25 Royalty Revenue Documents.

(a) As of the Effective Date and each Closing Date, except as set forth on Schedule 4.25(a) of the Disclosure Letter, neither Borrower nor any of its Subsidiaries is obligated to pay any royalty, revenue participation, milestone payment, deferred payment or any other contingent payment in respect of Product except pursuant to the Royalty Revenue Contract.

(b) To the Knowledge of Borrower, as of the Effective Date and each Closing Date, except as set forth on Schedule 4.25(b) of the Disclosure Letter, there are no disputes between Borrower or any of its Subsidiaries, on the one hand, and RPI or OMERS, on the other hand, under any Royalty Revenue Document that has not been completely resolved, except, as of the applicable Closing Date (after the Tranche A Closing Date), in each case, as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

4.26 JPR Royalty Sub.

(a) As of the Effective Date and each Closing Date, (i) JPR Royalty Sub does not have any Indebtedness (other than the Indebtedness under the JPR Indenture), (ii) none of the property, assets and revenues of JPR Royalty Sub is subject to a Lien (other than Liens of the Trustee (as defined in the JPR Indenture as in effect on the date hereof) on the Collateral (as defined in the JPR Indenture as in effect on the date hereof) pursuant to the JPR Indenture) and (iii) neither Borrower nor any of its Subsidiaries Guarantees or is otherwise liable for any of the Indebtedness or other obligations of JPR Royalty Sub.

(b) As of the Effective Date and each Closing Date, (i) None of the Indebtedness and other liabilities of JPR Royalty Sub under the JPR Indenture and other Deal Documents (as defined in the JPR Indenture) are recourse to Borrower and its Subsidiaries (other than the pledge by Borrower of its membership interests in JPR Royalty Sub pursuant to the "Pledge and Security Agreement" (as defined in the JPR Indenture as in effect on the date hereof), it being understood that the only recourse to Borrower is (x) such membership interests and no other assets of Borrower or any of its Subsidiaries and (y) pursuant to the expense reimbursement obligations set forth in Section 12.1 of such "Pledge and Security Agreement" and the indemnification obligations set forth in Section 19.1 of such "Pledge and Security Agreement") and (ii) as of the Closing Date, none of the holders of such Indebtedness and any trustee or agent acting on behalf of such holders has taken any action to accelerate such Indebtedness or otherwise enforce its rights or exercise its remedies under any of the JPR Indenture and other Deal Documents.

5 AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that, until payment in full of all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), each Credit Party shall, and shall cause each of its Subsidiaries, as applicable, to (except in the case of Section 5.2(a), which shall apply to Borrower only):

5.1 Maintenance of Existence. (a) Preserve, renew and maintain in full force and effect its and all its Subsidiaries' legal existence under the Requirements of Law in their respective jurisdictions of organization, incorporation or formation; (b) take all commercially reasonable action to maintain all rights, privileges (including its good standing (where applicable in the subject jurisdiction)), permits, licenses and franchises necessary or desirable for it and all of its Subsidiaries in the ordinary course of its business, except in the case of clause (a) (other than with respect to Borrower) and clause (b) above, (i) to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Change or (ii) pursuant to a transaction permitted by this Agreement; and (c) comply with all Requirements of Law of any Governmental Authority to which it is subject, except where the failure to do so could not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change.

5.2 Financial Statements, Notices, Reports. Deliver to the Collateral Agent:

(a) Financial Statements.

(i) Annual Financial Statements. As soon as available, but in any event within ninety (90) days after the end of each fiscal year of Borrower (or such later date on which Borrower is required to file a Form 10-K under the Exchange Act, as applicable), beginning with the fiscal year ending December 31, 2023, a consolidated balance sheet of Borrower and its Subsidiaries as of the end of such fiscal year, and the related consolidated statements of income, cash flows and stockholders' equity for such fiscal year, in each case certified by a Responsible Officer of Borrower, all prepared in accordance with GAAP, with such consolidated financial statements to be audited and accompanied by (i) a report and opinion of Borrower's independent certified public accounting firm of recognized national standing (which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any qualification as to "going concern" or "scope of audit" (other than any qualification resulting from the Term Loan Maturity Date occurring within twelve (12) months of the relevant audit, stating that such financial statements fairly present, in all material respects, the consolidated financial condition, results of operations and cash flows of Borrower and its Subsidiaries as of the dates and for the periods specified in accordance with GAAP, and (ii) if and only if Borrower is required to comply with the internal control provisions

pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 requiring an attestation report of such independent certified public accounting firm, an attestation report of such independent certified public accounting firm as to Borrower's internal controls pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 attesting to management's assessment that such internal controls meet the requirements of the Sarbanes-Oxley Act of 2002;

(ii) 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 Borrower (or such later date on which Borrower is required to file a Form 10-Q under the Exchange Act, as applicable), beginning with the fiscal quarter ending March 31, 2023, a consolidated balance sheet of Borrower and its Subsidiaries as of the end of such fiscal quarter, and the related consolidated statements of income and cash flows and for such fiscal quarter and (in respect of the second and third fiscal quarters of such fiscal year) for the then-elapsed portion of Borrower's fiscal year, all prepared in accordance with GAAP, not subject to any qualification or statement as to "going concern" or "scope of audit," (other than any qualification resulting from the Term Loan Maturity Date occurring within twelve (12) months of the relevant audit) subject to normal year-end audit adjustments and the absence of disclosures normally made in footnotes; provided, however, that Borrower shall be deemed to have made such delivery of such consolidated financial statements if such consolidated financial statements shall have been made available within the time period specified above on the SEC's EDGAR system (or any successor system adopted by the SEC). Such consolidated financial statements shall be certified by a Responsible Officer of Borrower as, to his or her knowledge, fairly presenting, in all material respects, the consolidated financial condition, results of operations and cash flows of Borrower and its Subsidiaries as of the dates and for the periods specified in accordance with GAAP consistently applied, and on a basis consistent with the audited consolidated financial statements referred to under Section 5.2(a)(i), subject to normal year-end audit adjustments and the absence of footnotes;

(iii) Quarterly Compliance Certificate. Upon delivery (or within five (5) Business Days following any deemed delivery) of financial statements pursuant to Section 5.2(a)(i) or Section 5.2(a)(ii), a duly completed Compliance Certificate signed by a Responsible Officer of Borrower, certifying, among other things, that (A) such financial statements fairly present, in all material respects, the consolidated financial condition, results of operations and cash flows of Borrower and its Subsidiaries as of the applicable dates and for the applicable periods in accordance with GAAP consistently applied, not subject to any qualification or statement as to "going concern" or "scope of audit" other than as expressly permitted under Section 5.2(a)(i) or Section 5.2(a)(ii) (as applicable), and (B) no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto; and

(iv) Other Information. As promptly as practicable (and in any event within five (5) Business Days (or such longer period as the Collateral Agent may agree in its sole discretion)) after the reasonable request of the Collateral Agent, such additional information regarding the operations, properties, business, liabilities or condition (financial or otherwise) of Borrower and its Subsidiaries (including with respect to the Collateral), or compliance with the terms of this Agreement or any other Loan Documents (subject to reasonable requirements of confidentiality, including requirements imposed by Requirements of Law or, to the extent not intended to hinder Borrower's obligations hereunder, contract; provided, that, Borrower shall not be obligated to disclose any information that is reasonably subject to the assertion of attorney-client privilege or attorney work-product).

(b) Notice of Defaults or Events of Default, ERISA Events, Withdrawal Events and Material Adverse Changes. Written notice as promptly as practicable (and in any event within five (5) Business Days (or such longer period as the Collateral Agent may agree in its sole discretion)) after a Responsible Officer of any Credit Party shall have obtained Knowledge thereof, of the occurrence of any (i) Default or Event of Default, (ii) ERISA Event, (iii), Withdrawal Event or (iv) Material Adverse Change.

(c) Legal Action Notice. Promptly (and in any event within five (5) Business Days (or such longer period as the Collateral Agent may agree in its sole discretion)) upon any Credit Party's receipt or otherwise obtaining Knowledge thereof, written notice of: (i) correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other material inquiry by such agency regarding financial or other operational results of Borrower or any Subsidiary of Borrower; or (ii) any legal action, litigation, investigation or proceeding pending or threatened in writing against Borrower or any of its Subsidiaries or licensing partners (A) that could reasonably be expected to result in uninsured damages or costs to Borrower or any of its Subsidiaries, individually or together with any other such action, litigation, investigation or proceeding, in an amount in excess of the materiality thresholds applied by Borrower in accordance with the Exchange Act and related regulations and standards for purposes of its Exchange Act Reporting, or (B) that alleges

violations of any Health Care Laws, FDA Laws, EU Laws, U.K. Laws, Data Protection Laws or any other applicable statutes, rules, regulations, standards, guidelines, policies and orders, or applicable foreign equivalents, administered or issued by any U.S. or foreign Governmental Authority which, individually or together with any other such allegations, could reasonably be expected to result in a Material Adverse Change; and in each case of sub-clause (i) or (ii) above, provide such additional information (including a description in reasonable detail regarding any material development) as the Collateral Agent may reasonably request in relation thereto; provided, that, neither Borrower nor any other Credit Party shall be obligated to disclose any information that is reasonably subject to the assertion of attorney-client privilege or attorney work-product.

Notwithstanding the foregoing, any documents, materials, notices or other information, that Borrower, any Credit Party or any Subsidiary of Borrower is required to deliver (including any copy of any attestation report or certification) under Sections 5.2(a)(i), (a)(ii), (c), or (d) above or Section 5.2(f) below shall be deemed to have been made if such item shall have been made available within the time period specified in Sections 5.2(a)(i), (a)(ii), (c), or (d) above or Section 5.2(f) below, as applicable, on the SEC's EDGAR system (or any successor system adopted by the SEC), provided, however, that in the case of any notice required to be delivered under Section 5.2(c) above or Section 5.3(f)(iii)(B) below, such notice shall be deemed to have been so made with respect to additional information the Collateral Agent may reasonably request only if it includes such additional information.

(d) Accounting Changes. Written notice of any material change in accounting policies or financial reporting practices by Borrower or any Subsidiary no later than ten (10) Business Days prior to the date the Borrower files its 10-K or 10-Q, as applicable, for the period in which the Borrower or its Subsidiary, as applicable, implements such material change in accounting policies or financial reporting practices.

(e) Assignment Notice. Prompt written notice of any Credit Party's obtaining Knowledge of any assignment of any of Borrower's or OMERS' or RPI's obligations or rights under the Royalty Revenue Contract or any other Royalty Revenue Document to which Borrower or any of its Subsidiaries is a party, or any acquisition of any interest in OMERS' or RPI's rights under the Royalty Revenue Contract or any other Royalty Revenue Document to which Borrower or any of its Subsidiaries is a party.

(f) Material Statements and Reports.

(i) Promptly after entering into the same, copies of any amendments, restatements, amendment and restatements, supplements, modifications, consents, approvals or waivers to or otherwise in respect of the Royalty Revenue Documents (including a description in reasonable detail regarding any fees or payments made in connection therewith);

(ii) Promptly after the furnishing thereof, copies of (i) any statement or report furnished to RPI or OMERS pursuant to Section 6.1 or 6.2(b) of the Royalty Revenue Contract, and (ii) any other material report, notice or other written information delivered pursuant to any Royalty Financing Document;

(iii) (A) Promptly after obtaining Knowledge thereof, written notice of (x) any holder of the Indebtedness under the JPR Indenture and the other Deal Documents (as defined in the JPR Indenture) or any trustee or agent acting on behalf of such holders taking any action to accelerate such Indebtedness or otherwise enforce its rights or exercise its remedies under any of the JPR Indenture and other Deal Documents and (y) any Insolvency Proceeding relating to JPR Royalty Sub or to all or any material part of its property that is instituted, and (B) upon request by the Collateral Agent, copies of any written material statement or report furnished to any holder of debt securities of Borrower or any Subsidiary pursuant to the terms of any indenture (including the JPR Indenture), loan or credit or similar agreement;

(iv) Promptly after obtaining Knowledge of any intent thereto or thereof, and in any event no later than ten (10) Business Days prior to the date thereof, written notice of the establishment or maintenance of (x) any bank account of any Credit Party other than the bank accounts set forth on Schedule 6.2(c) of the Disclosure Letter (which bank accounts constitute all of the deposit accounts, securities accounts or other similar accounts maintained by any Credit Party on the Tranche A Closing Date) that (y) is not an Excluded Account, which such notice shall describe such intent and provide other reasonable details; and

(v) Upon delivery of the Compliance Certificate with respect to the fiscal quarter ended June 30 or fiscal year ended December 31, pursuant to Section 5.2(a)(iii), a copy of the Borrower's then current Product Revenue Forecast prepared by management.

5.3 Taxes. Except as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change, (i) timely file all required U.S. federal, state, local and non-U.S. income and other material Tax returns and reports or extensions therefor and (ii) timely pay all Taxes, assessments, deposits and contributions imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrue thereon; provided, however, that no such Tax or any claim for Taxes that have become due and payable and have or may become a Lien on any Collateral shall be required to be paid if (a) it can be lawfully withheld and it is being contested in good faith, so long as adequate reserves therefor have been set aside on its books and maintained in conformity with GAAP, and (b) solely in the case of a Tax or claim that has or may become a Lien against any Collateral, such contest proceedings conclusively operate to stay the sale or forfeiture of any portion of any Collateral to satisfy such Tax or claim. No Credit Party will, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income Tax return with any Person with whom it does not currently file a consolidated income Tax return without the Collateral Agent's prior written consent, which may not be unreasonably withheld, conditioned or delayed.

5.4 Insurance. Maintain with financially sound and reputable independent insurance companies or underwriters, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons of comparable size 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 of comparable size engaged in the same or similar businesses as Borrower and its Subsidiaries) as are customarily carried under similar circumstances by such other Persons. Subject to the timing requirements of Section 5.14, any products liability or general liability insurance maintained in the United States regarding Collateral shall name the Collateral Agent, on behalf of the Lenders and the other Secured Parties, as additional insured or loss payee, as applicable (the additional insured clauses or endorsements for which, in form and substance reasonably satisfactory to the Collateral Agent). So long as no Event of Default shall have occurred and be continuing, Borrower and its Subsidiaries may retain all or any portion of the proceeds of any insurance of Borrower and its Subsidiaries (and the Collateral Agent and each Lender shall promptly remit to Borrower any proceeds received by it with respect to any such insurance).

5.5 Operating Accounts. In the case of any Credit Party, promptly following the establishment of any new Collateral Account at or with any bank or other depository or financial institution located in (i) the United States, subject such account to a Control Agreement or other appropriate instrument that is reasonably acceptable to the Collateral Agent or (ii) in Ireland, comply with requirements set forth in the applicable Collateral Document required by the Requirements of Law in relation to Collateral Accounts in Ireland. For the avoidance of doubt in the case of Ireland, this shall include, the service of a notice to the bank or other depository or financial institution at which the relevant Collateral Account is maintained and the applicable Credit Party shall use commercially reasonable efforts to procure the prompt delivery to the Collateral Agent of a duly completed acknowledgement in respect of any such notice in accordance with the Irish Collateral Documents; provided that, if the applicable Credit Party has used commercially reasonable efforts for a period of 28 Business Days and has not been able to obtain a duly completed acknowledgement, such obligation shall cease at the end of that 28 Business Day period. Except as otherwise provided in the last sentence of this paragraph, for each Collateral Account that each Credit Party at any time maintains in the United States, such Credit Party shall, within thirty (30) days of establishing such Collateral Account (or such longer period as the Collateral Agent may agree in its sole discretion), cause the applicable bank or other depository or financial institution located in the United States, at or with which any Collateral Account is maintained to execute and deliver, and such Credit Party shall execute and deliver, to the Collateral Agent, a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect the Collateral Agent's Lien, for the benefit of Lenders and the other Secured Parties, in such Collateral Account in accordance with the terms hereunder, which Control Agreement may not be terminated without the prior written consent of the Collateral Agent. The provisions of the previous two (2) sentences shall not apply to (1) accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of any Credit Party's employees, (2) zero balance accounts, (3) accounts (including trust accounts) used exclusively for escrow, customs, insurance or fiduciary purposes, (4) merchant accounts, (5) accounts used exclusively for compliance with any Requirements of Law to the extent such Requirements of Law prohibit the granting of a Lien thereon, (6) accounts which constitute cash collateral in respect of a Permitted Lien, (7) any account owned by JPR Royalty Sub LLC, a Delaware limited liability company, (8) as of the end of any fiscal quarter (commencing with the quarter ended prior to the Tranche A Closing Date), any other account used in the ordinary course of business or in furtherance of a *bona fide* general corporate purpose that has a cash balance (based on the average weekly cash balance held in such account during such fiscal quarter) that does not, together with other such accounts excluded pursuant to this sub-clause (8), exceed $**[***]** in the aggregate; provided, that, if the cash balance (based on the average weekly cash balance held in such account during such fiscal quarter) in accounts previously excluded under this sub-clause (8) exceeds such aggregate threshold at the end of any subsequent fiscal quarter, Borrower shall (x) no later than the date the applicable Compliance Certificate is required to be delivered with respect to such fiscal quarter, designate such accounts as no longer being Excluded Accounts, with the effect that the accounts which remain as Excluded Accounts pursuant to sub-clause (8) are in compliance with the requirements for exclusion under sub-clause (8), and (y) such designated accounts shall be deemed to be Collateral Accounts on the date of such designation (or the date such designation is

required to be made) and Borrower shall comply with the requirements of this Section 5.5 with respect to such accounts, and (9) accounts not otherwise described in sub-clauses (1) through (8) above constituting Excluded Property (all such accounts in sub-clauses (1) through (9) above, collectively, the "**Excluded Accounts**"). Notwithstanding the foregoing, the Credit Parties shall have until the date that is ninety (90) days (or such longer period as the Collateral Agent may agree in its sole discretion) following (i) the Tranche A Closing Date to comply with the provisions of this Section 5.5 with regards to Collateral Accounts (other than Excluded Accounts) of the Credit Parties in existence on the Tranche A Closing Date (or opened during such 90-day period (or such longer period as the Collateral Agent may agree in its sole discretion) and (ii) the closing date of any Acquisition or other Investment to comply with the provisions of this Section 5.5 with regards to Collateral Accounts (other than Excluded Accounts) of the Credit Parties acquired in connection with such Acquisition or other Investment.

5.6 Compliance with Laws.

(a) Comply in all respects with the Requirements of Law and all orders, writs, injunctions, decrees and judgments applicable to it or to its business or its assets or properties (including Environmental Laws, ERISA, Anti-Money Laundering Laws, Sanctions, Anti-Corruption Laws, Export and Import Laws, Health Care Laws, FDA Laws, EU Laws, U.K. Laws, Data Protection Laws and the Federal Fair Labor Standards Act and any foreign or United States state equivalents), including in connection with governing the research, development, testing, approval, clearance, authorization, exclusivity, licensure, designation, post-approval (or post-licensure, post-authorization, or post-clearance, as applicable) monitoring requirements or commitments, reporting, manufacture, production, packaging, labeling, use, commercialization, marketing, promotion, advertising, importing, exporting, storage, transport, offer for sale, distribution or sale of Product in the Territory, except, in each case, if the failure to comply therewith could not, individually or taken together with any other such failures, reasonably be expected to result in a Material Adverse Change.

(b) Borrower and its Subsidiaries have instituted and shall maintain policies and procedures reasonably designed to ensure compliance with Sanctions, Anti-Money Laundering Laws, Export and Import Laws and Anti-Corruption Laws.

5.7 Protection of Intellectual Property Rights.

(a) Except as could not reasonably be expected to result in a Material Adverse Change: (i) protect, defend and maintain the validity and enforceability of the Company IP material to the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory, including defending any future or current oppositions, interference proceedings, reissue proceedings, reexamination proceedings, *inter partes* review proceedings, derivation proceedings, post grant review proceedings, cancellation proceedings, injunctions, lawsuits, hearings, investigations, complaints, arbitrations, mediations, demands, International Trade Commission investigations, decrees, or any other disputes, disagreements, or claims, challenging the legality, validity, patentability, enforceability, inventorship or ownership of such Company IP; (ii) maintain the confidential nature of any material trade secrets and trade secret rights which are used in the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory; and (iii) not allow any Company IP material to the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory to be irrevocably abandoned, forfeited or dedicated to the public by a Credit Party or any of its Subsidiaries (other than through the exercise of normal prosecution practices and reasonable business judgment, e.g., the abandonment of a continuation application that is no longer needed to maintain the pendency of another patent application) or any Company IP Agreement to be terminated, as applicable, without the Collateral Agent's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that with respect to any such Company IP that is not owned by a Credit Party or any of its Subsidiaries, the obligations in sub-clauses (i) and (iii) above shall apply only to the extent a Credit Party or any of its Subsidiaries have the right to take such actions or to cause any licensee or other third party to take such actions pursuant to applicable agreements or contractual rights.

(b) Except as a Credit Party may otherwise determine in its reasonable business judgment, (i) use commercially reasonable efforts, at its (or its Subsidiary's) sole expense, either directly or indirectly, with respect to any licensee or licensor under the terms of any Credit Party's (or any of its Subsidiary's) agreement with the respective licensee or licensor, as applicable, to take any and all actions (including taking legal action to specifically enforce the applicable terms of any license agreement) and prepare, execute, deliver and file agreements, documents or instruments which are necessary to (A) prosecute and maintain the Company IP material to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory and (B) diligently defend or assert the Company IP material to the research, development, manufacture, production, use, commercialization, marketing,

importing, storage, transport, offer for sale, distribution or sale of Product in the Territory against material infringement, misappropriation, violation or interference by any other Persons and, in the case of Copyrights, Trademarks and Patents within such material Company IP, against any claims of invalidity, unpatentability or unenforceability (including by bringing any legal action for infringement, dilution, violation, derivation or defending any counterclaim of invalidity or action of a non-Affiliate third party for declaratory judgment of non-infringement or non-interference); and (ii) use commercially reasonable efforts to cause any licensee or licensor of any material Company IP not to, and such Credit Party shall not, disclaim, forfeit, dedicate to the public or abandon, or fail to take any action necessary to prevent the disclaimer, forfeiture or abandonment of such Company IP material to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory (other than through the exercise of normal prosecution practices and reasonable business judgment, *e.g.*, the abandonment of a continuation application that is no longer needed to maintain the pendency of another patent application); except, that sub-clauses (i) and (ii) above shall apply only to the extent a Credit Party or any of its Subsidiaries have the right to take such actions or to cause any licensor, licensee or other third party to take such actions pursuant to applicable agreements or contractual rights, and taking such actions would not otherwise breach, terminate or otherwise violate the terms of the applicable agreements. Each Credit Party agrees to (1) notify the Collateral Agent in writing, promptly (and in any event within five (5) Business Days (or such longer period as the Collateral Agent may agree in its sole discretion)), of, and (2) keep the Collateral Agent reasonably informed regarding, (x) any material infringement or violation any of the rights of any Credit Party or its Subsidiary in or to any material Company IP, or any material misappropriation by any Person of any material Company IP or any of the subject matter thereof, and (y) any Product that materially infringes or violates any Third Party IP or constitutes a material misappropriation of any Third Party IP.

(c) Except as a Credit Party may otherwise determine in its reasonable business judgment, and except as contemplated by any Permitted License, use commercially reasonable efforts to (i) protect, defend and maintain market and data exclusivity for the manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory through the Term Loan Maturity Date, and (ii) not allow for the manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of a generic version of Product in the Territory before the Term Loan Maturity Date, in each case without the Collateral Agent's prior written consent. Borrower agrees to (A) promptly notify the Collateral Agent in writing of, and (B) keep the Collateral Agent reasonably informed regarding the commencement of and any filings or submissions in any opposition, interference proceeding, reissue proceeding, reexamination proceeding, *inter partes* review proceeding, post-grant review proceeding, derivation proceeding, cancellation proceeding, injunction, lawsuit, hearing, investigation, complaint, arbitration, mediation, demand, International Trade Commission investigation, decree, or any other dispute, disagreement, or claim, in each case that is material and challenges the legality, validity, patentability, enforceability, inventorship or ownership of any material Company IP (including any claim in any Patent within the Company IP that is material to the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory), excluding in each case normal prosecution proceedings.

5.8 Books and Records. Maintain proper Books, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets, properties and business of such Credit Party (or such Subsidiary).

5.9 Access to Collateral; Audits. Allow the Collateral Agent, or its agents or representatives, at any time after the occurrence and during the continuance of an Event of Default, during normal business hours and upon reasonable advance notice, to visit and inspect any of the Collateral or to inspect and copy and (at the sole discretion of the Collateral Agent) audit any Credit Party's Books. The foregoing inspections and audits, if any, shall be at the relevant Credit Party's expense.

5.10 Use of Proceeds. (a) Use the proceeds of the Term Loans solely to repay all Indebtedness and any and all other amounts outstanding under the Existing Credit Agreement and any and all costs and expenses associated therewith, and to fund its general corporate and working capital requirements; and (b) not use the proceeds of the Term Loans, directly or indirectly, for the purpose of purchasing or carrying any Margin Stock, for the purpose of reducing or retiring any Indebtedness that was originally incurred to purchase or carry any Margin Stock, for the purpose of extending credit to any other Person for the purpose of purchasing or carrying any Margin Stock or for any other purpose that might cause any Term Loan to be considered a "purpose credit" within the meaning of Regulation T, U or X of the Federal Reserve Board. If requested by the Collateral Agent, Borrower shall complete and sign Part I of a copy of Federal Reserve Form G-3 referred to in Regulation U and deliver such copy to the Collateral Agent.

5.11 Further Assurances. Subject to Section 5.12(e), promptly upon the reasonable written request of the Collateral Agent, execute, acknowledge and deliver such further documents and do such other acts and things in

order to effectuate or carry out more effectively the purposes of this Agreement and the other Loan Documents at its expense, including after the Tranche A Closing Date taking such steps as are reasonably deemed necessary or desirable by the Collateral Agent to maintain, protect and enforce its Lien, for the benefit of Lenders and the other Secured Parties, on Collateral securing the Obligations created under the Collateral Documents and the other Loan Documents in accordance with the terms of the Collateral Documents and the other Loan Documents, subject to Permitted Liens.

5.12 Additional Collateral; Guarantors.

(a) Each Credit Party (other than Borrower) shall, and Borrower and each other Credit Party shall cause each of its Subsidiaries (other than Excluded Subsidiaries) to: (i) guarantee the Obligations; (ii) grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, a first priority security interest in and Lien upon (subject to Permitted Liens), and pledge to the Collateral Agent for the benefit of Lenders and the other Secured Parties, all of such Credit Party's or Subsidiary's properties and assets constituting Collateral (including the certificated and uncertificated Equity Interests (other than Excluded Equity Interests) in such Subsidiary), whether now existing or hereafter acquired or existing (including in connection with an Asset Acquisition), to secure such guaranty; and (iii) subject to the timing requirements of Sections 5.13 and 5.14 if and only to the extent applicable, execute and deliver to the Collateral Agent a joinder or pledge amendment to the Security Agreement (in the form(s) attached thereto), a joinder to the Intercreditor Agreement (if applicable) and such other Collateral Documents or other documents required under the terms of the Loan Documents or as the Collateral Agent may reasonably request, including (x) in connection with each pledge of certificated Equity Interests, such certificate(s) together with stock powers or assignments, as applicable, properly endorsed for transfer to the Collateral Agent or duly executed in blank, in each case reasonably satisfactory to the Collateral Agent, and (y) in connection with each pledge of uncertificated Equity Interests of a Person organized in the U.S., an executed uncertificated stock control agreement among the issuer, the registered owner and the Collateral Agent, substantially in the form attached to the Security Agreement.

(b) Borrower and each other Credit Party shall, and shall cause each of its Subsidiaries (other than Excluded Subsidiaries) to: (i) grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, a first priority security interest in and Lien upon (subject to Permitted Liens, the limitations set forth herein and the limitations set forth in the other Loan Documents), and pledge to the Collateral Agent for the benefit of Lenders and the other Secured Parties, all of such Credit Party's or Subsidiary's properties and assets constituting Collateral (including the certificated and uncertificated Equity Interests (other than Excluded Equity Interests) in such Subsidiary), whether now existing or hereafter acquired or existing (including in connection with an Asset Acquisition), to secure the payment and performance in full of all of the Obligations; and (ii) subject to the timing requirements of Sections 5.13 and 5.14 if and only to the extent applicable, execute and deliver to the Collateral Agent a joinder or pledge amendment to the Security Agreement (in the form(s) attached thereto), a joinder to the Intercreditor Agreement (if applicable) and such other Collateral Documents or other documents required under the terms of the Loan Documents or as the Collateral Agent may reasonably request, including (x) in connection with each pledge of certificated Equity Interests, such certificate(s) together with stock powers or assignments, as applicable, properly endorsed for transfer to the Collateral Agent or duly executed in blank, in each case reasonably satisfactory to the Collateral Agent, and (y) in connection with each pledge of uncertificated Equity Interests of a Person organized in the U.S. that is a Credit Party, an executed uncertificated stock control agreement among the issuer, the registered owner and the Collateral Agent, substantially in the form attached to the Security Agreement.

(c) Notwithstanding the foregoing, each Credit Party's obligations to take the actions set forth in clause (a) and clause (b) above with respect to any assets acquired as part of an Asset Acquisition or in connection with the Stock Acquisition of a Subsidiary after the Tranche A Closing Date or any Subsidiary incorporated, organized, formed or acquired (including by a Stock Acquisition) after the Tranche A Closing Date, shall in each case be subject to the timing requirements of Section 5.13. Any document, agreement or instrument executed or issued pursuant to this Section 5.12 shall be a Loan Document for all purposes under this Agreement and the other Loan Documents.

(d) In the event any Credit Party acquires any fee title to real estate in the U.S. with a fair market value (reasonably determined in good faith by a Responsible Officer of such Credit Party) in excess of $**[***]**, unless otherwise agreed by the Collateral Agent, such Person shall execute or deliver, or cause to be executed or delivered, to the Collateral Agent, (i) within sixty (60) days (or such longer period as Collateral Agent may agree in its sole discretion) after such acquisition, an appraisal complying with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, (ii) within forty-five (45) days (or such longer period as Collateral Agent may agree in its sole discretion) after receipt of notice from the Collateral Agent that such real estate is located in a Special Flood Hazard Area, Federal Flood Insurance, (iii) within sixty (60) days (or such longer period as Collateral Agent may agree in its sole discretion) after such acquisition, a fully executed Mortgage, in form and substance reasonably satisfactory to the Collateral Agent, together with an A.L.T.A. lender's title insurance policy

issued by a title insurer reasonably satisfactory to the Collateral Agent, in form and substance (including any endorsements) and in an amount reasonably satisfactory to the Collateral Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens (other than Permitted Liens), (iv) simultaneously with such acquisition, then-current A.L.T.A. surveys, certified to the Collateral Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (v) within sixty (60) days (or such longer period as Collateral Agent may agree in its sole discretion) after such acquisition, an environmental site assessment prepared by a qualified firm reasonably acceptable to the Collateral Agent, in form and substance reasonably satisfactory to the Collateral Agent.

(e) Notwithstanding anything to the contrary herein, including Section 5.11, in no event shall any Credit Party or any Subsidiary be required to enter into or deliver any foreign law-governed documents, file or record any documents or agreements (including any agreements relating to Intellectual Property) with any foreign Governmental Authority or take any other actions under foreign law with respect to Collateral held in any jurisdiction other than the United States, Ireland or, in the case of a Discretionary Guarantor, the jurisdiction of such Discretionary Guarantor, or, solely upon the occurrence and during the continuance of an Event of Default and by written notice to the Credit Parties, as the Collateral Agent may in its sole discretion otherwise require.

(f) Notwithstanding anything to the contrary herein, in relation to any Credit Party that is incorporated in Ireland, a guarantee provided by such Credit Party under the terms of this Agreement does not apply to any liability to the extent that it would result in the guarantee constituting unlawful financial assistance within the meaning of section 82 of the Irish Companies Act.

5.13 Formation or Acquisition of Subsidiaries; Discretionary Guarantors. If (i) any Credit Party or any of its Subsidiaries at any time after the Tranche A Closing Date incorporates, organizes, forms or acquires (including by a Stock Acquisition) a Subsidiary (including by division), other than an Excluded Subsidiary (a "**New Subsidiary**"), (ii) Borrower elects, in its sole discretion, to designate an Excluded Subsidiary as a Credit Party (such designated Subsidiary, a "**Discretionary Guarantor**"), or (iii) any Credit Party makes an Asset Acquisition other than assets constituting Excluded Property, such Credit Party shall (x) notify the Collateral Agent in writing promptly, and in no event later than five (5) Business Days (or such later date as the Collateral Agent may agree in its sole discretion) prior to such incorporation, organization, formation or acquisition, designation or Asset Acquisition, as applicable and (y) as promptly as practicable but in no event later than thirty (30) days (or such longer period as Collateral Agent may agree in its sole discretion) after such incorporation, organization, formation or acquisition, designation or Asset Acquisition: (a) without limiting the generality of clause (c) below, such Credit Party will cause such New Subsidiary, Discretionary Guarantor or Credit Party, as applicable, to the extent required or applicable to execute and deliver to the Collateral Agent a joinder to the Security Agreement (in the form attached thereto) and a joinder to the Intercreditor Agreement (if applicable), and any relevant IP Agreement or other Collateral Documents, as applicable; (b) such New Subsidiary or Discretionary Guarantor, as applicable, will deliver (or cause to be delivered) to the Collateral Agent (i) true, correct and complete copies of the Operating Documents of such New Subsidiary or Discretionary Guarantor, as applicable, (ii) a Secretary's Certificate, certifying that the copies of the Operating Documents of such New Subsidiary or Discretionary Guarantor, as applicable, are true, correct and complete (such Secretary's Certificate to be in form and substance reasonably satisfactory to the Collateral Agent) and (iii) a good standing certificate for such New Subsidiary or Discretionary Guarantor, as applicable, certified by the Secretary of State (or the equivalent thereof) of its jurisdiction of organization, incorporation or formation (where applicable in the subject jurisdiction); and (c) such Credit Party (will cause such New Subsidiary or Discretionary Guarantor, as applicable, to satisfy all requirements contained in this Agreement (including Section 5.12) and each other Loan Document if and to the extent applicable to such New Subsidiary or Discretionary Guarantor. The parties hereto agree that any New Subsidiary or Discretionary Guarantor, as applicable, shall constitute a Credit Party for all purposes hereunder as of the date of the execution and delivery of any joinder contemplated by clause (a) above or the date such New Subsidiary or Discretionary Guarantor, as applicable, provides any guarantee of the Obligations as contemplated by Section 5.12. Any document, agreement or instrument executed or issued pursuant to this Section 5.13 shall be a Loan Document for all purposes under this Agreement and the other Loan Documents.

5.14 Post-Closing Requirements. Borrower will, and will cause each of its Subsidiaries, as applicable, to take each of the actions set forth on Schedule 5.14 of the Disclosure Letter within the time period prescribed therefor on such schedule (or such longer period as the Collateral Agent may agree in its sole discretion), which shall include, among other things, that:

(a) notwithstanding anything to the contrary in Section 3.1(g) or Section 5.4, the Credit Parties shall have until the date that is thirty (30) days following the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to comply with the provisions of Section 5.4 with regards to naming the Collateral Agent, on behalf of the Lenders and the other Secured Parties, as additional insured or loss

payee, on any products liability or general liability insurance in the United States regarding Collateral in effect on the Tranche A Closing Date;

(b) notwithstanding anything to the contrary in Section 5.5, the Credit Parties shall have until the date that is ninety (90) days following the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to comply with the provisions of Section 5.5 with regards to Collateral Accounts of the Credit Parties in existence on the Tranche A Closing Date or opened during such 90-day period (or such longer period as the Collateral Agent may agree in its sole discretion);

(c) notwithstanding anything to the contrary in Section 6.2(b), the Credit Parties shall have until the date that is thirty (30) days following the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to comply with the provisions of Section 6.2(b) with regards to the location of the primary Books of any Credit Party or any of its Subsidiaries or the location of any material portion of the Collateral on the Tranche A Closing Date or during such 30-day period;

(d) notwithstanding anything to the contrary in Section 3.1, the Credit Parties shall have until the date that is:

(i) forty-five (45) days following the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to deliver to the Collateral Agent (x) the Irish Collateral Documents, and (y) the opinion of Matheson LLP, Irish counsel to the Lenders and the Collateral Agent, in form and substance reasonably satisfactory to the Collateral Agent; and

(ii) two (2) Business Days after the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to deliver, or cause to be delivered, to the Collateral Agent, or its designee, the original signature pages to each Tranche A Note issued by Borrower on the Tranche A Closing Date; provided, that, copies of such signature pages are delivered electronically or by facsimile to the Collateral Agent on or before the Tranche A Closing Date; and

(e) the Credit Parties shall have until the date that is two (2) Business Days after the Tranche A Closing Date (or such longer period as the Collateral Agent may agree in its sole discretion) to:

(i) record with the U.S. Patent and Trademark Office the Release of Intellectual Property Security Agreement, dated April 6, 2023, by MidCap Financial Trust for the benefit of BioCryst Pharmaceuticals, Inc. and MDCP, LLC for the United States patents **[***]**, **[***]**, **[***]** and **[***]**; and

(ii) record with the U.S. Patent and Trademark Office the Notice of Grant of Security Interest in Patents, dated December 7, 2020, by and among the Grantors party to the Security Agreement dated as of December 7, 2020 and Athyrium, as administrative agent for the secured parties referenced therein for U.S. Patent Application Serial No. **[***]**; and

(iii) file with the U.S. Patent and Trademark Office a continuation or divisional application claiming priority to at least one of United States patent application numbers **[***]**, **[***]**, and **[***]**.

All representations and warranties and covenants contained in this Agreement and the other Loan Documents shall be deemed modified to the extent necessary to take the actions set forth on Schedule 5.14 of the Disclosure Letter within the time periods set forth therein, rather than elsewhere provided in the Loan Documents, such that to the extent any such action set forth in Schedule 5.14 of the Disclosure Letter is not overdue, the applicable Credit Party shall not be in breach of any representation or warranty or covenant contained in this Agreement or any other Loan Document applicable to such action for the period from the Tranche A Closing Date until the date on which such action is required to be fulfilled as set forth on Schedule 5.14 of the Disclosure Letter. For the avoidance of doubt, any document, agreement or instrument executed or issued pursuant to this Section 5.14 shall be a Loan Document for all purposes under this Agreement and the other Loan Documents.

5.15 Environmental.

(a) Deliver to the Collateral Agent:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Borrower or any of its Subsidiaries or by independent consultants, governmental authorities or any other

Persons, with respect to significant environmental matters at any Facility or with respect to any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change;

(ii) promptly upon a Responsible Officer of any Credit Party or any of its Subsidiaries obtaining knowledge of the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported to any federal, state, local or foreign governmental or regulatory agency under any applicable Environmental Laws that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, (B) any remedial action taken by (or on behalf of) any Credit Party or any other Person in response to (x) any Hazardous Materials Activities, the existence of which, individually or in the aggregate, could reasonably be expected to result in one or more Environmental Claims resulting in a Material Adverse Change, or (y) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, and (C) any Credit Party's discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility that could cause such Facility or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws, provided, that with respect to real property adjoining or in the vicinity of any Facility, Borrower shall have no duty to affirmatively investigate or make any efforts to become or stay informed regarding any such adjoining or nearby properties;

(iii) as soon as practicable following the sending or receipt thereof by any Credit Party, a copy of any and all written communications with respect to (A) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, (B) any Release required to be reported to any federal, state, local or foreign governmental or regulatory agency that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, and (C) any request for information from any Governmental Authority that suggests such Governmental Authority is investigating whether any Credit Party or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change; and

(iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to affect the ability of Borrower or any of its Subsidiaries to maintain in full force and effect all material Governmental Approvals required under any Environmental Laws for their respective operations, and (B) any proposed action to be taken by Borrower or any of its Subsidiaries to modify current operations, in each case of sub-clause (A) and (B) above, that, individually or taken together with any other such proposed acquisitions or actions, expose Borrower or any of its Subsidiaries to, or result in, Environmental Claims that could reasonably be expected to result in a Material Adverse Change.

(b) Each Credit Party shall, and shall cause each of its Subsidiaries to, promptly take any and all actions reasonably necessary to (i) cure any violation of applicable Environmental Laws by Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change, and (ii) make an appropriate response to any Environmental Claim against Borrower or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder where failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change.

5.16 Inventory; Returns; Maintenance of Properties. Keep all Inventory which constitutes Product in good and marketable condition, free from material defects and otherwise keep all Inventory which constitutes Product in compliance with all applicable FDA Laws, EU Laws, U.K. Laws and all other foreign equivalents, as applicable, except where the failure to do so could not reasonably be expected to result in a Material Adverse Change. Returns and allowances between a Credit Party and its Account Debtors shall follow such Credit Party's customary practices. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear, casualty and condemnation excepted, all material tangible properties used or useful in its respective business, and from time to time will make or cause to be made all commercially reasonable repairs, renewals and replacements thereof except where failure to do so could not reasonably be expected to result in a Material Adverse Change.

5.17 Regulatory Obligations; Maintenance of Regulatory Approval or Licensure; Licensure and Designation; Manufacturing, Marketing and Distribution.

(a) (i) Comply in all material respects with Governmental Authority post-marketing approval, authorization, clearance, or licensure requirements and commitments and monitoring for Product in the

Territory, as applicable; (ii) maintain all Regulatory Approvals or Licensures required or otherwise material to manufacture, market and distribute Product in the Territory; (iii) with respect to each calendar year commencing with calendar year 2023, use commercially reasonable efforts to maintain manufacturing capacity to sell Product in the Territory in sufficient quantities to satisfy or exceed the net sales amount for such calendar year set forth in the Product Revenue Forecast; and (iv) otherwise take all commercially reasonable steps required to maintain the Orphan Drug designation.

(b) Deliver to the Collateral Agent, as promptly as practicable after a Responsible Officer of Borrower shall have obtained knowledge thereof, written notice describing in reasonable detail any instance where any Credit Party or any of its Subsidiaries or licensing partners, has a reasonable expectation that there are grounds for imposition of a clinical hold, as described in 21 C.F.R. § 312.42 or foreign equivalent, or withdrawal of an Investigational New Drug Application, as defined in 21 C.F.R. § 312.380 or foreign equivalent, in each case with respect to Product.

5.18 Material Contracts; Collateral Documents. Comply (a) with all of its covenants, agreements, undertakings and obligations arising under, and fulfill all of its obligations under, each Material Contract to which it is a party, except as could not reasonably be expected to have a Material Adverse Change, and (b) in all respects with all of its covenants, agreements, undertakings and obligations arising under, and fulfill all of its obligations under, each Collateral Document to which it is a party.

5.19 JPR Royalty Sub - Indenture.

(a) Until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, Borrower hereby agrees that it shall, to the extent required by the JPR Indenture and other Deal Documents (as defined in the JPR Indenture), and all agreements and documents entered into from time to time in connection therewith (including any amendments or modifications thereof) and not otherwise prohibited pursuant to the terms of the Loan Documents, perform (i) such administrative activities necessary to maintain the continuing existence of JPR Royalty Sub, such as completing required annual registration or report filings with state filing offices, and (ii) such activities in the ordinary course of business incidental to its ownership of the Equity Interests of JPR Royalty Sub, to the extent that failure to perform any of the foregoing activities described in sub-clauses (i) and (ii) could reasonably be expected to result in a Material Adverse Change.

(b) Until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, it shall constitute a breach of this Section 5.19 by Borrower if (i) JPR Royalty Sub shall (A) transact or engage in any activities, business or operations or consummate any transactions other than the performance of its obligations and activities reasonably incidental thereto under the JPR Indenture and the other Deal Documents, and all agreements and documents entered into from time to time in connection therewith (including any amendments or modifications thereof), (B) amend the terms of the JPR Indenture or the other Deal Documents in a manner that is materially adverse to the Collateral Agent or any Lender or that could reasonably be expected to result in a Material Adverse Change, (C) allow its Operating Documents to be modified in a manner (1) that is adverse to the Collateral Agent or any Lender in any material respect or (2) that could reasonably be expected to result in a Material Adverse Change, (D) own any assets other than the Purchased Assets (as defined in the JPR Indenture), (E) create, incur, assume or suffer to exist any Indebtedness (other than the Indebtedness under the JPR Indenture) and (F) 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 Liens of the Trustee (as defined in the JPR Indenture as in effect on the date hereof) on the Collateral (as defined in the JPR Indenture as in effect on the date hereof) pursuant to the JPR Indenture), or (ii) any Credit Party or any Subsidiary shall, unless at such time JPR Royalty Sub is a Credit Party, and then only to the extent permitted hereunder, directly or indirectly, (A) make any Investment in JPR Royalty Sub, (B) sell, transfer, license, lease or dispose of any asset or property of such Credit Party or Subsidiary to JPR Royalty Sub or (C) become liable for any Contingent Obligations described in clause (a) of the definition thereof with respect to Indebtedness of JPR Royalty Sub (other than the pledge by Borrower of its membership interests in JPR Royalty Sub pursuant to the "Pledge and Security Agreement" (as defined in the JPR Indenture as in effect on the date hereof), it being understood that the only recourse to Borrower is (I) such membership interests and no other assets of Borrower or any of its Subsidiaries and (II) pursuant to the expense reimbursement obligations set forth in Section 12.1 of such "Pledge and Security Agreement" and the indemnification obligations set forth in Section 19.1 of such "Pledge and Security Agreement").

(c) Following discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, Borrower shall, within five (5) Business Days (or such longer period as the Collateral Agent may agree in its reasonable discretion) or, if not then permitted pursuant to the JPR Indenture or other Deal Documents, within five (5) Business Days (or such longer period as the Collateral Agent may agree in its reasonable discretion) of such first date thereafter as may be permitted under the JPR Indenture and such other Deal Documents, and at its election, to the extent that JPR Royalty Sub is not then an Excluded Subsidiary either (a) dissolve JPR Royalty Sub and

liquidate its assets into Borrower or (b) take such actions required by the Collateral Agent to cause JPR Royalty Sub to become a Guarantor under the Loan Documents pursuant to Section 5.13 with respect to newly formed or acquired Subsidiaries.

6 NEGATIVE COVENANTS

Each Credit Party covenants and agrees that, until payment in full of all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), such Credit Party shall not, and shall cause each of its Subsidiaries, as applicable, not to:

6.1 Dispositions. Convey, sell, lease, transfer, exchange, assign, covenant not to sue, enter into a coexistence agreement, exclusively or nonexclusively license out, or otherwise dispose of (including any sale-leaseback or any transfer of assets pursuant to a plan of division), whether in one or a series of transactions (collectively, "**Transfer**"), all or any part of its properties or assets constituting Collateral (including, for the avoidance of doubt, any Equity Interests constituting Collateral issued by any Subsidiary which are owned or otherwise held by such Credit Party) or any Company IP that does not constitute Collateral under the Loan Documents but is related to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory; except, in each case of this Section 6.1, for Permitted Transfers (unless otherwise expressly prohibited under in Section 6.6(b)).

6.2 Fundamental Changes; Location of Collateral.

(a) Without at least ten (10) days' prior written notice to the Collateral Agent (or such later date as the Collateral Agent may agree in its sole discretion), solely in the case of a Credit Party: (i) change its jurisdiction of organization, incorporation or formation, (ii) change its organizational structure or type, (iii) change its legal name, or (iv) change any organizational number (if any) assigned by its jurisdiction of organization, incorporation or formation.

(b) Maintain its primary Books at or deliver any Collateral with a fair market value (reasonably determined in good faith by a Responsible Officer of Borrower), individually or together with any other Collateral, in excess of $**[***]** to any mortgaged or leased locations or any warehouse, processor or bailee, as applicable, unless, subject to the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable, such Credit Party uses commercially reasonable efforts to obtain a Collateral Access Agreement for such mortgaged or leased location or such warehouse, processor or bailee governing such Books or such Collateral (as applicable), in form and substance reasonably satisfactory to the Collateral Agent, to the extent such Collateral is located in the United States. Notwithstanding anything to the contrary herein, such obligation to deliver Collateral Access Agreements will not apply to any inventory or assets while in transit.

(c) Establish or maintain any bank account of any Credit Party other than the bank accounts set forth on Schedule 6.2(c) of the Disclosure Letter (which bank accounts constitute all of the deposit accounts, securities accounts or other similar accounts maintained by any Credit Party on the Tranche A Closing Date), unless, (x) in the case of any account that is not an Excluded Account and (y) to the extent such account is established or maintained in the United States or Ireland, such account is made subject to a Control Agreement in accordance with, and to the extent required by, Section 5.5 hereof (irrespective, for the avoidance of doubt, of whether such Credit Party has delivered to the Collateral Agent written notice regarding such account in accordance with Section 5.2(f)(iv) hereof).

(d) Maintain cash in any bank account located in other than the United States or Ireland that would be in excess of the lesser of the amount of cash that would be appropriate for (i) the continued operations in the ordinary course of business or in furtherance of a *bona fide* general corporate purpose of such Credit Party or Subsidiary and (ii) such other business needs of such Person, as reasonably determined by a Responsible Officer of Borrower in good faith, consistent with prudent cash management practices and not with an intent to hinder the security interests available under the Loan Documents.

(e) Take any action or engage in any transaction (or series of actions or transactions), whether by reorganization, sale of assets, merger, dissolution, amendment of Operating Documents or otherwise, the primary purpose of which is to evade, avoid or seek to avoid the performance or observance of any of the covenants, agreements or obligations of any Credit Party under the Loan Documents (including under the Collateral Documents).

6.3 Mergers, Acquisitions; Liquidations or Dissolutions.

(a) Merge, divide itself into two (2) or more entities, consolidate, liquidate or dissolve, or permit any of its Subsidiaries to merge, divide itself into two (2) or more entities, consolidate, liquidate or dissolve with or into any other Person, except that:

(i) (x) any Subsidiary of Borrower may merge or consolidate with or into a Credit Party, provided that the Credit Party is the surviving entity and (y) any Subsidiary of Borrower may liquidate or dissolve, provided that prior to or concurrent with such liquidation or dissolution, the remaining assets of such Subsidiary shall be distributed to another Subsidiary, provided, further, that if the liquidating or dissolving Subsidiary is a Credit Party, the assets of such Subsidiary shall be distributed to an existing or newly-formed Credit Party;

(ii) any Subsidiary of Borrower may merge or consolidate with any other Subsidiary of Borrower, provided that if any party to such merger or consolidation is a Credit Party then either (x) such Credit Party is the surviving entity or (y) the surviving or resulting entity satisfies each of the applicable requirements of Section 5.13 substantially contemporaneously with completion of such merger or consolidation;

(iii) any Subsidiary of Borrower may divide itself into two (2) or more entities or be dissolved or liquidated, provided that if such Subsidiary is a Credit Party, the properties and assets of such Subsidiary are allocated or distributed to an existing or newly-formed or newly-joined Credit Party;

(iv) any Subsidiary that is not a Credit Party may be dissolved or liquidated; provided, that, (x) all of its assets and business are transferred to one or more Credit Parties or none or more non-Credit Parties and (y) neither such dissolution or liquidation nor such transfer could reasonably be expected to result in a Material Adverse Change; and

(v) any Permitted Acquisition or Permitted Investment may be structured as a merger or consolidation.

(b) Make, or permit any of its Subsidiaries to make, Acquisitions outside the ordinary course of business, including any purchase of all or substantially all of the assets of, or any division or line of business of, any other Person, other than Permitted Acquisitions or Permitted Investments. For the avoidance of doubt, nothing in this Section 6.3 shall prohibit any Credit Party or its Subsidiaries from entering into in-licensing agreements; provided that, in each case of this clause (b), no Indebtedness not otherwise permitted hereunder is incurred or assumed in connection therewith.

6.4 Indebtedness. Directly or indirectly, create, incur, assume or guaranty or otherwise become or remain liable with respect to, any Indebtedness (including, for the avoidance of doubt, any Indebtedness consisting of obligations evidenced by a bond, debenture, note or other similar instrument) that is not Permitted Indebtedness; provided, however, that the accrual of interest, 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 6.4.

6.5 Encumbrances. Except for Permitted Liens, (i) create, incur, allow, or suffer to exist any Lien on any Collateral, or (ii) permit (other than pursuant to the terms of the Loan Documents) any material portion of the Collateral not to be subject to the first priority security interest granted in the Loan Documents or otherwise pursuant to the Collateral Documents, in each case of this clause (ii), other than as a direct result of any action by the Collateral Agent or any Lender or failure of the Collateral Agent or any Lender to perform an obligation thereof under the Loan Documents.

6.6 No Further Negative Pledges; Negative Pledge.

(a) Enter into any agreement, document or instrument directly or indirectly prohibiting (or having the effect of prohibiting) or limiting the ability of such Credit Party or Subsidiary to create, incur, assume or suffer to exist any Lien upon any Collateral, whether now owned or hereafter acquired, in favor of the Collateral Agent, for the benefit of Lenders and the other Secured Parties, with respect to the Obligations or under the Loan Documents, in each case of this Section 6.6, other than Permitted Negative Pledges.

(b) Notwithstanding Section 6.1, no Credit Party will Transfer, or create, incur, allow or suffer to exist any Lien on, any Equity Interests constituting Collateral issued by any Subsidiary which are owned or

otherwise held by such Credit Party, except for: (i) Permitted Liens; (ii) transfers between or among Credit Parties, provided that any and all steps as may be reasonably required to be taken in order to create and maintain a first priority security interest in and Lien upon such Equity Interests in favor of the Collateral Agent, for the benefit of Lenders and the other Secured Parties, are taken contemporaneously with the completion of any such transfer; and (iii) sales, assignments, transfers, exchanges or other dispositions to qualify directors if required by Requirements of Law or otherwise permitted under this Agreement, provided that such sale, assignment, transfer, exchange or other disposition shall be for the minimum number of Equity Interests as are necessary for such qualification under Requirements of Law.

6.7 Maintenance of Collateral Accounts. Maintain any Collateral Account except in accordance with the terms of Section 5.5 hereof.

6.8 Distributions; Investments.

(a) Pay any dividends or make any distribution or payment on, or redeem, retire or repurchase any of its Equity Interests, except, in each case of this Section 6.8, for Permitted Distributions, Permitted Transactions and Permitted Equity Derivatives.

(b) Directly or indirectly, make any Investment other than Permitted Acquisitions and Permitted Investments.

For the avoidance of doubt, nothing in this Section 6.8 shall prohibit any Credit Party or its Subsidiaries from entering into in-licensing agreements; provided, however, that, in each case, no Indebtedness that is not Permitted Indebtedness is incurred or assumed in connection therewith.

6.9 No Restrictions on Subsidiary Distributions. Enter into any agreement, document or instrument, directly or indirectly prohibiting (or having the effect of prohibiting) or limiting the ability of any Subsidiary of Borrower to (a) pay dividends or make any other distributions on any of such Subsidiary's Equity Interests owned by Borrower or any other Subsidiary of Borrower, (b) repay or prepay any Indebtedness owed by such Subsidiary to Borrower or any other Subsidiary of Borrower, (c) make loans or advances to Borrower or any other Subsidiary of Borrower, or (d) transfer, lease or license any Collateral to Borrower or any other Subsidiary of Borrower, except, in each case of this Section 6.9, for Permitted Subsidiary Distribution Restrictions.

6.10 Subordinated Debt; Royalty Revenue Payments; Permitted Convertible Indebtedness; Permitted Additional Royalty Financings.

(a) Make or permit any voluntary or optional prepayment or repayment of the outstanding principal amount of any Subordinated Debt other than in accordance with the express terms of a subordination, intercreditor or other similar agreement relating to such Subordinated Debt, if any, that is in form and substance reasonably satisfactory to the Collateral Agent;

(b) Make or permit any payment of interest (including accrued and unpaid interest) in cash on or in respect of any Subordinated Debt at any time that a Default or Event of Default shall have occurred and be continuing other than in accordance with the express terms of a subordination, intercreditor or other similar agreement relating to such Subordinated Debt, if any, that is in form and substance reasonably satisfactory to the Collateral Agent;

(c) Create, incur or assume or otherwise become directly liable for any Subordinated Debt, or guaranty or otherwise become directly or indirectly liable for any Subordinated Debt of another Credit Party or Subsidiary, in each case (i) except to the extent permitted under Section 6.4 and (ii), with respect to any Subsidiary, only if such Subsidiary is a Guarantor hereunder;

(d) Amend, restate, supplement or otherwise modify any terms, conditions or other provisions of any Subordinated Debt, or any agreement, instrument or other document relating thereto, in any manner which would contravene in any respect any of the foregoing clauses of this Section 6.10 or adversely affect the payment or priority subordination thereof (as applicable) to Obligations owed to Lenders, in each case except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt, if any, is subject, without the prior written consent of the Collateral Agent (in its sole discretion).

(e) Amend, restate, supplement, modify or replace, or renew or alter, including pursuant to any waiver, consent or approval, any terms, conditions or other provisions of the Royalty Revenue Contract or any other Royalty Revenue Document as in effect on the date of this Agreement in any manner which would: (i) change

the calculation or time of any payment to RPI or OMERS pursuant thereto, including any change to the basis or manner for calculating any late or overdue payments (including any fees or interest payments thereon), (ii) change any of the terms of the RPI Obligations or OMERS Obligations (as such terms are defined in the Intercreditor Agreement as in effect of the date of this Agreement), in each case other than in a manner consistent with such RPI Obligations or OMERS Obligations, as applicable, set forth in the Royalty Revenue Contract as in effect as of the date of this Agreement, including any change to obligate Borrower or any of its Subsidiaries to make any payment to RPI or OMERS with respect to the RPI Obligations or the OMERS Obligations, respectively, (x) relating to the occurrence of a change of control of Borrower or the termination of the Royalty Revenue Contract or any other Royalty Revenue Document, (y) in advance of the time when any such payments are due and payable under the Royalty Revenue Contract as in effect as of the date of this Agreement, including any advance payment or prepayment, or (z) in a minimum amount to be paid upon the occurrence (or non-occurrence) of certain events or conditions, including a "true up" payment that is payable if a specified amount of royalty payments are not received by RPI or OMERS, as applicable, by a specified date (it being understood and agreed that the royalty payments under the Royalty Revenue Contract as in effect as of the date of this Agreement, including the applicability of the Regime A Royalty Rate and the Regime B Royalty Rate under the OMERS Documents (as such term is defined in the Intercreditor Agreement as in effect of the date of this Agreement), do not include the payment features described in sub-clauses (x), (y) or (z) above), (iii) contravene in any respect any of the terms or conditions set forth in this Agreement (including clause (f) below) or any other Loan Document (including the Intercreditor Agreement) or (iv) adversely affect the payment or priority subordination set forth in the Intercreditor Agreement to the Obligations owed to Lenders, in each case of this clause (e) other than to the extent not prohibited by the Intercreditor Agreement.

(f) Make or cause any of its Subsidiaries to make (or exercise any option with respect thereto), directly or indirectly, any payment or reimbursement of any kind to RPI or OMERS pursuant to the Royalty Revenue Contract or other Royalty Revenue Document, in each case except for: (i) any payments due and payable to RPI or OMERS pursuant to the Royalty Revenue Contract or other Royalty Revenue Document as in effect on the date of this Agreement and taking into account any restatement, amendment and restatement, supplement or modification thereto or any approval, consent or waiver in respect thereof, permitted under clause (e) above, but excluding in all cases, (w) any advance payment before such payment is due and payable, (x) any prepayment of any of the royalty payments or similar payments owed under the Royalty Revenue Contract or any other Royalty Revenue Document, (y) any minimum amount to be paid upon the occurrence (or non-occurrence) of certain events or conditions, including a "true up" payment that is payable if a specified amount of royalty payments are not received by RPI or OMERS, as applicable, by a specified date (it being understood and agreed that the royalty payments due and payable under the Royalty Revenue Contract as in effect as of the date of this Agreement, including the applicability of the Regime A Royalty Rate and the Regime B Royalty Rate under the OMERS Documents (as such term is defined in the Intercreditor Agreement as in effect of the date of this Agreement), do not include the payment features described in sub-clauses (w), (x) or (y) above), in each case only so long as paid when due and payable under the Royalty Revenue Contract as in effect as of the date of this Agreement, or (z) any other payment that Borrower has the right, but not the obligation, to make pursuant to the Royalty Revenue Contract or other Royalty Revenue Document (if any) or that Borrower agrees to make pursuant to any amendment, restatement, amendment and restatement, supplement or modification thereto or any approval, consent or waiver in respect thereof; (ii) any indemnity payment due and payable to RPI or OMERS pursuant to the Royalty Revenue Contract or other Royalty Revenue Document as in effect on the date of this Agreement; (iii) any payment or reimbursement of any documented out-of-pocket costs or expenses of RPI or OMERS pursuant to the Royalty Revenue Contract or other Royalty Revenue Document as in effect on the date of this Agreement; or (iv) any late fees or interest payments due and payable to RPI or OMERS pursuant to (and calculated in accordance with) the Royalty Revenue Contract or other Royalty Revenue Document as in effect on the date of this Agreement relating directly to any underpayment of any of the foregoing in sub-clauses (i) through (iii) above.

(g) Make or cause any of its Subsidiaries to make (or exercise any option with respect thereto) any payment, prepayment, repurchase or redemption for cash of any Indebtedness under any Permitted Convertible Indebtedness unless and until all of the Obligations are paid in full; provided, however, that nothing in this Section 6.10(g) shall prohibit or otherwise restrict (i) any Permitted Transaction, (ii) scheduled cash interest payments, (iii) required cash payments of accrued but unpaid interest upon repurchase or redemption thereof, (iv) cash payments in lieu of any fractional share issuable upon conversion thereof, (v) required cash payments of any amounts due upon the scheduled maturity thereof solely using proceeds of equity contributions, or (vi) any ordinary course fees or other expenses in connection therewith.

(h) Without the written consent of the Collateral Agent (acting in its sole discretion), make or cause any of its Subsidiaries to make (or exercise any option with respect thereto), directly or indirectly, any payment or reimbursement of any kind to any counterparty to pursuant to any Permitted Additional Royalty Financing Documents, in each case except for: (i) any payments due and payable to such counterparty pursuant to the applicable Permitted Additional Royalty Financing Documents, but excluding in all cases, any advance payment, prepayment or similar payment that Borrower has the right, but not the obligation, to make pursuant to such

Permitted Additional Royalty Financing Documents (if any) or that Borrower agrees to make pursuant to any amendment, restatement, amendment and restatement, supplement or modification thereto or any approval, consent or waiver in respect thereof; (ii) true-up payment or similar payment due and payable to any counterparty pursuant to any Permitted Additional Royalty Financing Documents; (iii) any indemnity payment due and payable to any counterparty pursuant to any Permitted Additional Royalty Financing Documents; (iv) any payment or reimbursement of any documented out-of-pocket costs or expenses of to any counterparty pursuant to any Permitted Additional Royalty Financing Documents; or (v) any late fees or interest payments due and payable to any counterparty pursuant to any Permitted Additional Royalty Financing Documents relating directly to any underpayment of any of the foregoing in sub-clauses (i) through (iv) above.

The parties hereto agree that the foregoing clauses (a) through (h) shall, from and after discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, apply to JPR Royalty Sub (in its capacity as a Subsidiary).

6.11 Amendments or Waivers of Organizational Documents. Amend, restate, supplement or otherwise modify, or waive, any provision of its Operating Documents in a manner that would reasonably be expected to result in a Material Adverse Change.

6.12 Compliance.

(a) Become an "investment company" under the Investment Company Act of 1940, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose;

(b) With respect to any ERISA Affiliate, cause or suffer to exist (i) any event that would result in the imposition of a Lien under ERISA on any assets or properties of any Credit Party or a Subsidiary of a Credit Party with respect to any Plan or (ii) any other ERISA Event that, in the case of clauses (i) and (ii) above, could reasonably be expected to, individually or in the aggregate, result in a Material Adverse Change.

(c) Permit the occurrence of any other event with respect to any present pension, profit sharing or deferred compensation plan which could reasonably be expected to result in a Material Adverse Change.

6.13 Compliance with Sanctions and Anti-Money Laundering Laws.

(a) The Collateral Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of Sanctions and Anti-Money Laundering Laws, and such Person's policies and practices, the Collateral Agent and each Lender is required to obtain, verify and record certain information and documentation that identifies each Credit Party and its principals, which information includes the name and address of each Credit Party and its principals and such other information that will allow the Collateral Agent and each Lender to identify such party in accordance with Sanctions and Anti-Money Laundering Laws.

(b) No Credit Party will, nor will any Credit Party permit any of its Subsidiaries or controlled Affiliates to, directly or indirectly, enter into any documents or contracts with any Blocked Person.

(c) Each Credit Party shall notify the Collateral Agent and each Lender in writing promptly (but in any event within five (5) Business Days after) a Responsible Officer of any Credit Party becomes aware that any Credit Party or any Subsidiary or Affiliate of any Credit Party is a Blocked Person or that any Credit Party or any Subsidiary or Affiliate of any Credit Party or any of their respective directors, officers or employees (i) is convicted on, (ii) pleads *nolo contendere* to, (iii) is indicted on, or (iv) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering.

(d) No Credit Party will, nor will any Credit Party permit any of its Subsidiaries or controlled Affiliates to, directly or indirectly, (i) conduct any prohibited business or engage in any prohibited investment, activity, transaction or deal with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any investment, activity, transaction or dealing relating to, any property or interests in property blocked pursuant to Sanctions, or (iii) engage in or conspire to engage in any investment, activity, transaction or dealing that evades or avoids or violates, or has the purpose of evading or avoiding, or attempts to violate, any prohibitions under applicable Sanctions or Anti-Money Laundering Laws.

(e) Borrower will not, directly or, to the Knowledge of Borrower, indirectly (including through an agent or any other Person), use any of the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds of any Credit Extension to any Subsidiary, joint venture partner or other Person, (i) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office or anyone else, in order to obtain, retain or direct business, or to obtain any improper advantage, in violation in any respect of Anti-Corruption Laws, (ii) in violation in any respect of any Anti-Money Laundering Laws, (iii) in violation of Sanctions or (iv) in violation of Export and Import Laws.

(f) Borrower shall not, and shall not permit any of its Subsidiaries to, directly or, to the Knowledge of Borrower, indirectly, fund all or part of any repayment of the Credit Extensions or other payments under this Agreement out of proceeds derived from criminal activity or activity or transactions in violation in any respect of Anti-Corruption Laws, Export or Import Laws, Anti-Money Laundering Laws or Sanctions, or that would otherwise cause any Person (including any Person participating in the Credit Extensions, whether as agent, lender, sponsor, underwriter, advisor, investor, or otherwise) to be in violation in any respect of Anti-Corruption Laws, Export or Import Laws, Anti-Money Laundering Laws or Sanctions.

6.14 Material Contracts. (i) Waive, amend, cancel or terminate, exercise or fail to exercise, any material rights constituting or relating to any of the Material Contracts or (ii) breach, default under, or take any action or fail to take any action that, with the passage of time or the giving of notice or both, would constitute a default or event of default under any of the Material Contracts, in each case of this Section 6.14, which, individually or taken together with any other such waivers, amendments, cancellations, terminations, exercises or failures, could reasonably be expected to have a Material Adverse Change.

7 EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

7.1 Payment Default. Any Credit Party fails to (a) make any payment of any principal of the Term Loans when and as the same shall become due and payable, whether at the due date thereof (including pursuant to Section 2.2(c)) or at a date fixed for prepayment (whether voluntary or mandatory) thereof or by acceleration thereof or otherwise, or (b) within **[***]** Business Days after the same becomes due and payable, any payment of interest or premium pursuant to Section 2.2, including any applicable Additional Consideration, Makewhole Amount or Prepayment Premium, or any other Obligations (which such **[***]** Business Day cure period shall not apply to any such payments due on the Term Loan Maturity Date or such earlier date pursuant to Section 2.2(c)(ii) or Section 2.2(c)(iii) hereof or the date of acceleration pursuant to Section 8.1(a) hereof). A failure to pay any such interest, premium or Obligations pursuant to the foregoing clause (b) prior to the end of such **[***]** Business Day-period shall not constitute an Event of Default (unless such payment is due on the Term Loan Maturity Date or such earlier date pursuant to Section 2.2(c)(ii) or Section 2.2(c)(iii) hereof or the date of acceleration pursuant to Section 8.1(a) hereof).

7.2 Covenant Default.

(a) The Credit Parties: (i) fail or neglect to perform any obligation in Sections 5.3, 5.5, 5.10, 5.13, 5.14 or 5.17(a) or (ii) violate or breach any covenant or agreement in Section 6; or

(b) The Credit Parties fail or neglect to perform any obligation in Section 5.2, 5.6, 5.7 or 5.17(b), such failure or neglect is capable of being cured and continues for **[***]** days, after the earlier of the date on which (i) a Responsible Officer of any Credit Party becomes aware of such failure or neglect and (ii) written notice thereof shall have been given to Borrower by the Collateral Agent or any Lender. Cure periods provided under this Section 7.2(b) shall not apply, among other things, to any of the covenants referenced in clause (a) above.

(c) The Credit Parties fail or neglect to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents on its part to be performed, kept or observed and such failure or neglect is capable of being cured and continues for **[***]** days, after the earlier of the date on which (i) a Responsible Officer of any Credit Party becomes aware of such failure or neglect and (ii) written notice thereof shall have been given to Borrower by the Collateral Agent or any Lender. Cure periods provided under this Section 7.2(c) shall not apply, among other things, to any of the covenants referenced in clause (a) or (b) above.

7.3 Withdrawal Event; Material Adverse Change. A (a) Withdrawal Event occurs, or (b) a Material Adverse Change occurs.

7.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of any Credit Party or of any entity under the control of any Credit Party (including a Subsidiary) in excess of $**[***]** on deposit or otherwise maintained with the Collateral Agent, or (ii) a notice of lien or levy is filed against any material portion of the Collateral by any Governmental Authority, and the same under sub-clauses (i) or (ii) above is not, within **[***]** days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); or

(b) (i) Any material portion of Collateral is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower and its Subsidiaries from conducting any material part of their business, taken as a whole.

7.5 Insolvency.

(a) An involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking: (i) relief in respect of any Credit Party, or of a substantial part of the property of any Credit Party, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership, examinership or other similar law; (ii) the voluntary or involuntary appointment of a receiver, interim receiver, receiver and manager, administrative receiver, administrator, trustee, custodian, sequestrator, conservator, examiner or other similar official for or in respect of any Credit Party or for all or a substantial part of the property or assets or undertakings of any Credit Party; (iii) issuance of a warrant of attachment, execution, distraint or similar process against all or a substantial part of the property or assets or undertakings of any Credit Party; or (iv) the winding-up or liquidation of any Credit Party; and in each case of sub-clause (i) through (iv) above, such proceeding or petition shall continue undismissed or unstayed for **[***]** days or an order or decree approving or ordering any of the foregoing shall be entered;

(b) Any Credit Party shall: (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other existing or future federal, state or foreign bankruptcy, insolvency, receivership, examinership, relief of debtors or similar law; (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (a) above; (iii) apply for or consent to the appointment of a receiver, interim receiver, receiver and manager, administrative receiver, administrator, trustee, custodian, sequestrator, conservator, examiner or other similar official for or in respect of any Credit Party or for any portion of the property or assets or undertakings of any Credit Party; (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding; (v) make a general assignment for the benefit of creditors, or enter into a composition, compromise, assignment or arrangement with any of its creditors (whether by way of a voluntary arrangement, schedule of arrangement, deed of compromise or otherwise); (vi) become unable to, admit in writing its inability to or fail to, generally pay its debts as they become due; (vii) take any action for the purpose of effecting any of the foregoing; or (viii) wind up or liquidate (except as otherwise expressly permitted hereunder);

(c) Any Credit Party or any Subsidiary shall be insolvent as defined in any statute of the Bankruptcy Code or in the fraudulent conveyance or fraudulent transfer statutes of the State of Delaware or other applicable jurisdiction of organization; or

(d) An affirmative vote by the applicable Board of Directors to commence any case, proceeding or other action described in clause (a) above or any other action by any Credit Party or any Subsidiary to otherwise cause, consent to, approve or acquiesce in any of the acts described in clauses (a) through (c) above.

7.6 Other Agreements.

(a) Any Credit Party or any of its Subsidiaries (i) fails to pay any Indebtedness (other than the Indebtedness represented by this Agreement and the other Loan Documents and Indebtedness under the JPR Indenture) within any applicable grace period after such payment is due and payable (including at final maturity) or after the acceleration of any such Indebtedness by the holder(s) thereof because of a default, in each case, if the total amount of such Indebtedness unpaid or accelerated exceeds $**[***]**, or (ii) fails to observe or perform any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which failure or other event is to cause, or to permit the holder(s) of such Indebtedness or the beneficiary or beneficiaries of any Contingent Obligations included

in such Indebtedness (or a trustee or agent on behalf of such holder(s) or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, repay, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity (or such Contingent Obligations to become payable or cash collateral in respect thereof to be demanded;

(b) Without limiting the generality of clause (a) above, an event of default occurs under any Hedging Agreement as to which any Credit Party or any of its Subsidiaries is the defaulting party or any termination event occurs under any Hedging Agreement as to which any Credit Party or any of its Subsidiaries is a party, in either case, if, in respect of such Hedging Agreement and as a result of such occurrence, the Hedge Termination Value owed by any such Credit Party or Subsidiary, either individually or together with any and all other fees payable as a result of terminating such Hedging Agreement(s), is greater than $**[***]**; or

(c) Without limiting the generality of clause (a) above, (i) Borrower (or any Subsidiary of Borrower) fails to pay within **[***]** Business Days after the same becomes due any amount owing under the Royalty Revenue Contract or other Royalty Revenue Document, unless the amount of such payment is otherwise being disputed in good faith by Borrower (or such Subsidiary), in accordance with the terms of the Royalty Revenue Contract or other Royalty Revenue Document, as applicable, or (ii) any other material breach or default under the Royalty Revenue Contract or other Royalty Revenue Document occurs and continues unremedied for more than **[***]** days.

7.7 Judgments. One or more final, non-appealable judgments, orders, or decrees for the payment of money in an amount in excess of $**[***]** (but excluding any final judgments, orders, or decrees for the payment of money that are covered by independent third-party insurance as to which liability has not been denied by such insurance carrier or by an indemnification claim against a solvent and unaffiliated Person that is not a Credit Party as to which such Person has not denied liability for such claim), shall be rendered against one or more Credit Parties and the same are not, within **[***]** days after the entry thereof, discharged or execution thereof stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay.

7.8 Misrepresentations. Any Credit Party or any Person acting for any Credit Party makes or is deemed to make any representation or warranty now or later in, or pursuant to, this Agreement or any other Loan Document, and such representation or warranty is incorrect in any material respect (or, to the extent any such representation or warranty is qualified by materiality or Material Adverse Change, in any respect) when made or deemed to be made.

7.9 Loan Documents; Collateral. Any material provision of any Loan Document shall for any reason cease to be valid and binding on or enforceable against any Credit Party, or any Credit Party shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in any material portion of the Collateral purported to be covered thereby or such security interest shall for any reason (other than pursuant to the terms of the Loan Documents) cease to be a perfected and first priority security interest in any material portion of the Collateral subject thereto, subject only to Permitted Liens, in each case, other than as a direct result of any action by the Collateral Agent or any Lender or failure of the Collateral Agent or any Lender to perform an obligation thereof under the Loan Documents.

7.10 ERISA Event. An ERISA Event occurs that, individually or taken together with any other ERISA Events, results or could reasonably be expected to result in a Material Adverse Change, or the imposition of a Lien under Section 303(k) of ERISA on any Collateral that could reasonably be expected to, individually or in the aggregate, result in a Material Adverse Change.

7.11 Intercreditor Agreement. A material default or breach occurs under the Intercreditor Agreement, or any other subordination, intercreditor or other similar agreement with respect to any Permitted Indebtedness that constitutes Subordinated Debt or Permitted Convertible Indebtedness, or any creditor party to such an agreement with the Collateral Agent (or Lenders) and any Credit Party breaches any of the terms of such agreement in any material respect; provided, that material defaults or breaches for the purposes of this Section 7.11 shall include breaches of any payment, enforcement or subordination provisions or restrictions set forth in such

agreement. For the avoidance of doubt, default or breaches by any Secured Party shall not constitute an Event of Default hereunder.

8 RIGHTS AND REMEDIES UPON AN EVENT OF DEFAULT

8.1 Rights and Remedies. While an Event of Default occurs and continues, the Collateral Agent may, or at the request of the Required Lenders, will, without notice or demand:

(a) declare all Obligations (including, for the avoidance of doubt, any and all amounts payable pursuant to Section 2.2(e) and Section 2.2(f), as applicable) immediately due and payable (but if an Event of Default described in Section 7.5 occurs, all Obligations, including any and all amounts payable pursuant to Section 2.2(e) and Section 2.2(f), as applicable, are automatically and immediately due and payable without any notice, demand or other action by the Collateral Agent or any Lender), whereupon all Obligations for principal, interest, premium or otherwise (including, for the avoidance of doubt, any and all amounts payable pursuant to Section 2.2(e) and Section 2.2(f), as applicable) shall become due and payable by Borrower without presentment for payment, demand, notice of protest or other demand or notice of any kind, which are all expressly waived by the Credit Parties hereby;

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement;

(c) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that the Collateral Agent considers advisable, notify any Person owing Borrower money of the Collateral Agent's security interest, for the benefit of the Lenders and the other Secured Parties, in such funds, and verify the amount of the Collateral Accounts;

(d) make any payments and do any acts it considers necessary or reasonable to protect the Collateral or the Collateral Agent's security interest, for the benefit of Lenders and the other Secured Parties, in the Collateral. Borrower shall assemble the Collateral if the Collateral Agent or the Required Lenders requests and make it available as the Collateral Agent designates or the Required Lenders designate. The Collateral Agent or its agents or representatives may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien that appears to be prior or superior to its security interest, for the benefit of Lenders and the other Secured Parties, and pay all expenses incurred. Borrower grants the Collateral Agent an irrevocable, royalty-free license or other right to enter, use, operate and occupy (and for its agents or representatives to enter, use, operate and occupy), without charge, any such premises to exercise any of the Collateral Agent's or any Lender's rights or remedies under this Section 8.1 (including in order to take possession of, collect, receive, assemble, process, appropriate, remove, realize upon, advertise for sale, sell, assign, license out, convey, transfer or grant options to purchase any Collateral);

(e) apply to the Obligations (i) any balances and deposits of Borrower it holds, (ii) any amount held by the Collateral Agent owing to or for the credit or the account of Borrower or (iii) any balance from any Collateral Account of any Credit Party or instruct the bank at which any such Collateral Account is maintained to pay the balance of any such Collateral Account to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, or to any Lender on behalf of itself and the other Secured Parties, as the Collateral Agent shall direct;

(f) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. With respect to any and all Intellectual Property owned or held by any Credit Party and included in Collateral, each Credit Party hereby grants to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, to the maximum extent permitted: an irrevocable, non-exclusive, assignable, royalty-free license or other right to use (and for its agents or representatives to use), without charge, including the right to sublicense, use and practice, any and all of such Credit Party's rights to such Intellectual Property in order to take possession of, collect, receive, assemble, process, appropriate, remove, realize upon, advertise for sale, sell, assign, license out, convey, transfer or grant options to purchase any Collateral, and access to all media in which any of the licensed items may be recorded or stored and to all Software and programs used for the compilation or printout thereof; and in connection with the Collateral Agent's exercise of its rights or remedies under this Section 8.1 (including in order to take possession of, collect, receive, assemble, process, appropriate, remove, realize upon, sell, assign, license out, convey, transfer or grant options to purchase any Collateral), each Credit Party's rights under all licenses and all franchise contracts inure to the benefit of all Secured Parties;

(g) place a "hold" on any account maintained with the Collateral Agent or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(h) demand and receive possession of the Books of any Credit Party regarding Collateral; and

(i) exercise all rights and remedies available to the Collateral Agent or any Lender under the Collateral Documents or any other Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

Each of the Collateral Agent and Lender agrees that in connection with any foreclosure or other exercise of rights under this Agreement or any other Loan Document with respect to any Intellectual Property included in the Collateral, the rights of the licensees under any license of such Intellectual Property will not be terminated, limited or otherwise adversely affected so long as no default exists thereunder in a way that would permit the licensor to terminate such license (commonly termed a non-disturbance). Without limitation to any other provision herein or in any other Loan Document, while an Event of Default occurs and continues, at the Collateral Agent's or the Required Lenders' request, representatives from Borrower and the Collateral Agent shall promptly meet (in person or telephonically) to discuss in good faith how to collect, receive, appropriate and realize upon Borrower's rights and interests in, to and under any Company IP Agreement constituting Collateral, including in connection with any foreclosure or other exercise of the Collateral Agent's or any Lender's rights with respect thereto. If Borrower and the Collateral Agent do not mutually agree with respect thereto within ten (10) Business Days after such request by the Collateral Agent (or such later date as agreed by the Collateral Agent), then the Collateral Agent may request Borrower to, and Borrower (promptly following the receipt of such request) shall, use reasonable best efforts to obtain the written consent of any counterparty to the exercise by the Collateral Agent or any Lender of any and all rights and remedies under this Agreement or any other Loan Document with respect to any Company IP Agreement constituting Collateral, in form and substance reasonably satisfactory to the Collateral Agent.

8.2 Power of Attorney. Borrower hereby irrevocably appoints the Collateral Agent and any Related Party thereof as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Collateral Accounts directly with depository banks where the Collateral Accounts are maintained, for amounts and on terms the Collateral Agent determines reasonable; (d) make, settle, and adjust all claims under Borrower's products liability or general liability insurance policies maintained in any jurisdiction regarding Collateral; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of the Collateral Agent or a third party as the Code permits. Borrower hereby appoints the Collateral Agent and any Related Party thereof as its lawful attorney-in-fact to file or record any documents necessary to perfect or continue the perfection of the Collateral Agent's security interest, for the benefit of Lenders and the other Secured Parties, in the Collateral regardless of whether an Event of Default has occurred until all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) have been satisfied in full and no Lender is under any further obligation to make Credit Extensions hereunder. The foregoing appointment of the Collateral Agent and any Related Party thereof as Borrower's attorney in fact, and all of the Collateral Agent's (or such Related Party's) rights and powers, coupled with an interest, are irrevocable until all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) have been fully repaid and performed and each Lender's obligation to provide Credit Extensions terminates.

8.3 Application of Payments and Proceeds Upon Default. If an Event of Default has occurred and is continuing, the Collateral Agent shall apply any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Collateral Accounts or disposition of any other Collateral, or otherwise, to the Obligations in such order as the Collateral Agent shall determine in its sole discretion, subject in all respects to the Intercreditor Agreement. Subject to the Intercreditor Agreement, any surplus remaining after satisfaction in full of all Obligations shall be paid to Borrower or other Persons legally entitled thereto; Borrower shall remain liable to Lenders for any deficiency. If the Collateral Agent or any Lender directly or indirectly enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, the Collateral Agent or such Lender, as applicable, shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by the applicable Lender(s) of cash therefor.

8.4 Collateral Agent's Liability for Collateral. So long as the Collateral Agent complies with Requirements of Law regarding the safekeeping of the Collateral in the possession or under the control of the Collateral Agent, the Collateral Agent shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; or (c) any act or default of any other Person. In no event shall the Collateral

Agent or any Lender have any liability for any diminution in the value of the Collateral for any reason. Borrower bears all risk of loss, damage or destruction of the Collateral.

8.5 No Waiver; Remedies Cumulative. The Collateral Agent's or any Lender's failure, at any time or times, to require strict performance by Borrower or any other Person of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of the Collateral Agent or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Each of the Collateral Agent's and Lender's rights and remedies under this Agreement and the other Loan Documents are cumulative. Each of the Collateral Agent and Lenders has all rights and remedies provided under the Code, by law, or in equity. The exercise by the Collateral Agent or any Lender of one right or remedy is not an election and shall not preclude the Collateral Agent or any Lender from exercising any other remedy under this Agreement or other remedy available at law or in equity, and the waiver by the Collateral Agent or any Lender of any Event of Default is not a continuing waiver. The Collateral Agent's or any Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

8.6 Demand Waiver; Makewhole Amount; Prepayment Premium. Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by the Collateral Agent on which Borrower is liable. Borrower acknowledges and agrees that if the maturity of all Obligations shall be accelerated pursuant to Section 8.1(a) by reason of the occurrence of an Event of Default, the applicable Makewhole Amount and Prepayment Premium that is payable pursuant to Section 2.2(e) and Section 2.2(f), as applicable, shall become due and payable by Borrower upon such acceleration, whether such acceleration is automatic or is effected by the Collateral Agent's or any Lender's declaration thereof, as provided in Section 8.1(a), and shall also become due and payable in the event the Obligations are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other similar means, and Borrower shall pay the applicable Makewhole Amount and Prepayment Premium that is payable pursuant to Section 2.2(e) and Section 2.2(f), as applicable, as compensation to Lenders for the loss of its investment opportunity and not as a penalty, and Borrower waives any right to object thereto in any voluntary or involuntary bankruptcy, insolvency or similar proceeding or otherwise.

9 NOTICES

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address (if any) indicated below. Any party to this Agreement may change its mailing or electronic mail address or facsimile number by giving all other parties hereto written notice thereof in accordance with the terms of this Section 9.

If to Borrower or any other Credit Party:

c/o BioCryst Pharmaceuticals, Inc.
4505 Emperor Blvd., Suite 200
Durham, North Carolina 2773
Attn: Anthony Doyle, CFO
Alane Barnes, CLO
Email: [***]
[***]

with copies to (which shall not constitute notice) to:

Gibson Dunn LLP
200 Park Avenue
New York, NY 10166-0193
Attn: Jin Hee Kim
Tel: [***]
Email: [***]

If to Collateral Agent: BioPharma Credit PLC
c/o Link Group, Company Matters Ltd.
6th Floor
65 Gresham Street
London EC2V 7NQ
United Kingdom
Attn: Company Secretary
Tel: [***]
Fax: [***]
Email: [***]

with copies (which shall not constitute notice) to:

Pharmakon Advisors, LP
110 East 59th Street, #2800
New York, NY 10022
Attn: Pedro Gonzalez de Cosio
Phone: [***]
Fax: [***]
Email: [***]

and

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036-6745
Attn: Geoffrey E. Secol
Phone: [***]
Fax: [***]
Email: [***]

If to any Lender: To the address of such Lender set forth on Exhibit D attached hereto

with copies (which shall not constitute notice) to:

Pharmakon Advisors, LP
110 East 59th Street, #2800
New York, NY 10022
Attn: Pedro Gonzalez de Cosio
Phone: [***]
Fax: [***]
Email: [***]

and

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036-6745
Attn: Geoffrey E. Secol
Phone: [***]
Fax: [***]
Email: [***]

10 CHOICE OF LAW, VENUE, AND JURY TRIAL WAIVER

THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCLUDING THOSE LOAN DOCUMENTS THAT BY THEIR OWN TERMS ARE EXPRESSLY GOVERNED BY THE LAWS OF ANOTHER JURISDICTION, IF ANY) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY PRINCIPLES OF CONFLICTS OF LAW THAT COULD REQUIRE THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION, PROVIDED, HOWEVER, THAT IF THE LAWS OF ANY JURISDICTION OTHER THAN NEW YORK SHALL GOVERN IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT

OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS AFFECTING ENFORCEMENT OF ANY LIENS IN COLLATERAL, SUCH LAWS OF SUCH OTHER JURISDICTIONS SHALL APPLY TO THAT EXTENT. Except as contemplated by the immediately succeeding paragraph, each party hereto submits to the exclusive jurisdiction of the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Requirements of Law, in such Federal court; provided, however, that nothing in this Agreement shall be deemed to operate to preclude the Collateral Agent or any Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of the Collateral Agent or any Lender. Each Credit Party expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and each Credit Party hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or *forum non conveniens* and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Each Credit Party hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to such party at the address set forth in (or otherwise provided in accordance with the terms of) Section 9 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of such party's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY REQUIREMENTS OF LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY CLAIM, SUIT, ACTION OR PROCEEDING WITH RESPECT TO, OR DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN AND THEREIN OR RELATED HERETO OR THERETO (WHETHER FOUNDED IN CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO RELATED PARTY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10 AND (C) HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

11 GENERAL PROVISIONS

11.1 Successors and Assigns.

(a) This Agreement binds and is for the benefit of the parties hereto and their respective successors and permitted registered assigns.

(b) No Credit Party may transfer, pledge or assign this Agreement or any other Loan Document or any rights or obligations hereunder or thereunder without the prior written consent of each Lender. Subject to Section 11.1(d), any Lender may at any time sell, transfer, assign or pledge this Agreement or any other Loan Document or any of its rights or obligations hereunder or thereunder, or grant a participation in all or any part of, or any interest in, such Lender's obligations, rights or benefits under this Agreement and the other Loan Documents, including with respect to any Term Loan (or any portion thereof), to any third Person (any such sale, transfer, assignment, pledge or grant of a participation, a "**Lender Third Party Transfer**"), with Borrower's consent (which consent shall not be unreasonably withheld, conditioned or delayed); provided, however, that (i) no consent of Borrower shall be required (A) if such sale, transfer, assignment, pledge or grant of a participation is to a Lender, an Affiliate of a Lender or an Approved Fund (any such sale, transfer, assignment, pledge or grant, a "**Lender Affiliate Transfer**", and, together with a Lender Third Party Transfer, a "**Lender Transfer**") or (B) if such sale, transfer, assignment, pledge or grant of a participation is in furtherance of, contemplated under or otherwise in connection with a Lender's credit facility (including any exercise of rights or remedies thereunder or any actions as a result of any such exercise); (ii) with respect to a Lender Third Party Transfer that includes any sale, transfer, assignment, pledge or grant of a participation of any unfunded Tranche B Commitment, Tranche C Commitment or Tranche D Commitment (as applicable), the parties hereto agree that it shall be reasonable for Borrower to withhold its consent to such Lender Third Party Transfer if it is to a Financially Disqualified Assignee; (iii) if an Event of Default has occurred and is continuing, then no consent of Borrower to any Lender Transfer shall be required; and (iv) the parties hereto agree that Borrower will be deemed to have consented to any Lender Transfer requiring consent hereunder unless it has delivered to the Collateral Agent a written notice of objection within five (5) Business Days following its receipt of the request therefor from the Collateral Agent; provided, however, that no Lender may make a Lender Third Party Transfer to a Financially Disqualified Assignee or a Disqualified Assignee

without Borrower's prior written consent except after the occurrence and during the continuance of an Event of Default.

(c) In the case of a Lender Transfer in the form of a participation granted by any Lender to any third party, (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of its obligations hereunder, (iii) Borrower shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (iv) any agreement or instrument pursuant to which such Lender sells such participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, restatement, supplement or other modification hereto, in each case subject to the terms and conditions of this Agreement. Borrower agrees that each participant shall be entitled to the benefits of Sections 2.5 and 2.6 (subject to the requirements and limitations therein, including the requirements under Section 2.6(d) (it being understood that the documentation required under Section 2.6(d) shall be delivered to the applicable Lender)) to the same extent as if it were a Person that had acquired its interest by assignment pursuant to clause (b) above; provided that, with respect to any participation, such participant shall not be entitled to receive any greater payment under Sections 2.5 or 2.6 than the applicable Lender (i.e., the party that participated the interest) would have been entitled to receive, except to the extent of any entitlement to receive a greater payment resulting from a Change in Law that occurs after such participant acquired the applicable participation.

(d) Borrower shall record any Lender Transfer in the Register. Each Lender shall provide Borrower and the Collateral Agent with written notice of a Lender Transfer delivered no later than five (5) Business Days prior to the date on which such Lender Transfer is proposed to be consummated. If any Lender sells a participation, such Lender shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each participant and principal amounts (and stated interest) of each participant's interest in the Term Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided, however, that such Lender shall have no obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in "registered form" within the meaning of Section 5f.103-1(c) of the United States Treasury regulations (or any amended or successor version) or Section 163(f), 871(h)(2) and 881(c)(2) of the IRC and any related regulations (and any other relevant or successor provisions of the IRC or such regulations). The entries in the Participant Register shall be conclusive absent manifest error, and the Collateral Agent and each 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.

(e) Any attempted transfer, pledge or assignment of this Agreement or any other Loan Document or any rights or obligations hereunder or thereunder in violation of this Section 11.1 shall be null and void and neither Borrower nor any transfer agent shall give any effect to such attempted transfer.

11.2 Indemnification.

(a) Borrower agrees to indemnify and hold harmless each of the Collateral Agent, the Intercreditor Agent, Lenders and its and their respective Affiliates (and its or their respective successors and assigns) and each manager, member, partner, controlling Person, director, officer, employee, agent or sub-agent, advisor and affiliate thereof (each such Person, an "**Indemnified Person**") from and against any and all Indemnified Liabilities; provided, however, that Borrower shall have no obligation to any Indemnified Person hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnified Person (or the gross negligence or willful misconduct of such Indemnified Person's affiliates or controlling Persons or any of their respective managers, members, partners, controlling Persons, directors, officers, employees, agents or sub-agents, advisors or affiliates), (ii) result from a claim brought by Borrower against an Indemnified Person for material breach in bad faith of any of such Indemnified Person's obligations hereunder or under any other Loan Document, if Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction, or (iii) result from a claim not involving an act or omission of Borrower or any of its Subsidiaries that is brought by an Indemnified Person against another Indemnified Person (other than against the Collateral Agent or the Intercreditor Agent in their capacities as such). This Section 11.2(a) shall not apply with respect to Taxes other than any Taxes that represent liabilities, obligations, losses, damages, penalties, claims, costs, expenses and disbursements arising from any non-Tax claim.

(b) Borrower agrees that neither it nor any of its Subsidiaries will settle, compromise, or consent to the entry of any judgment in any pending or threatened claim, action, or proceeding in respect of which indemnification or contribution could be sought by an Indemnified Person under Section 11.2(a) (whether or not any

Indemnified Person is an actual or potential party to such claim, action, or proceeding) without the prior written consent of the applicable Indemnified Person, unless such settlement, compromise, or consent includes an unconditional release of such Indemnified Person and its Subsidiaries and Affiliates from all liability arising out of such claim, action, or proceeding, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that the parties hereto agree that the applicable Indemnified Person will be deemed to have consented to such settlement, compromise or consent unless it has delivered to Borrower a written notice of objection within ten (10) Business Days following its receipt of the written request therefor from Borrower, which such request shall describe such settlement, compromise or consent in reasonable detail.

(c) Each of the Collateral Agent and the Intercreditor Agent and each Lender agree that neither it nor any of its Affiliates or other Indemnified Person will settle, compromise, or consent to the entry of any judgment in any pending or threatened claim, action, or proceeding in respect of which indemnification or contribution could be sought by any Indemnified Person an Indemnified Person under this Section 11.2(a) without the prior written consent of Borrower, unless such settlement, compromise, or consent includes an unconditional release of Borrower and its Subsidiaries and Affiliates from all liability arising out of such claim, action, or proceeding, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that the parties hereto agree that Borrower will be deemed to have consented to such settlement, compromise or consent unless it has delivered to the Collateral Agent or such Indemnified Person a written notice of objection within ten (10) Business Days following its receipt of the written request therefor from the Collateral Agent or such Indemnified Person, which such request shall describe such settlement, compromise or consent in reasonable detail.

(d) To the extent permitted by Requirements of Law, no party to this Agreement shall assert, and each party to this Agreement hereby waives, any claim against any other party hereto (and its or their successors and assigns), and each manager, member, partner, controlling Person, director, officer, employee, agent or sub-agent, advisor and affiliate thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, arising out of, as a result of, or in any way related to, this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Credit Extension or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each party to this Agreement hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(e) Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of the Collateral Agent, the Intercreditor Agent or any Lender, shall be at the expense of such Credit Party, and neither the Collateral Agent, the Intercreditor Agent nor any Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, and without limiting the generality of Section 2.4, Borrower agrees to pay or reimburse upon demand each of the Collateral Agent, the Intercreditor Agent and Lenders (and their respective successors and assigns) and each of their respective Related Parties, if applicable, for any and all fees, expenses and disbursements of the kind or nature described in clause (b) of the definition of "Lender Expenses" or in the definition of "Indemnified Liabilities" incurred by it.

11.3 Severability of Provisions. In case any provision in or obligation hereunder or under any other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

11.4 Correction of Loan Documents. The Collateral Agent or Required Lenders may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties hereto so long as the Collateral Agent or Required Lenders, as applicable, provides the Credit Parties and the other parties hereto with written notice of such correction and allows the Credit Parties at least ten (10) days to object to such correction in writing delivered to the Collateral Agent and each Lender. In the event of such objection, such correction shall not be made except by an amendment to this Agreement in accordance with Section 11.5.

11.5 Amendments in Writing; Integration.

(a) No amendment, restatement or modification of or supplement to any provision of this Agreement or any other Loan Document, or waiver, discharge or termination of any obligation hereunder or thereunder, no approval or consent hereunder or thereunder (including any consent to any departure by Borrower or any other Credit Party herefrom or therefrom), shall in any event be effective unless the same shall be in writing and signed by Borrower (on its own behalf and on behalf of each other Credit Party) and the Required Lenders; provided, however, that no such amendment, restatement, modification, supplement, waiver, discharge, termination,

approval or consent shall, unless in writing and signed by the Collateral Agent and the Required Lenders, affect the rights or duties of, or any amounts payable to, the Collateral Agent under this Agreement or any other Loan Document. Any such waiver, approval or consent granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver, approval or consent.

(b) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations among the parties hereto about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

(c) Notwithstanding the foregoing, and only if an Administrative Agent is appointed pursuant to Section 12.11 below, if reasonably requested by Borrower, amendments agreed to by the Collateral Agent in its commercially reasonable discretion may be made to any provision of this Agreement or any other Loan Document without the consent of any Lender, in each case if and to the extent required or necessary to effect the Administrative Agent Documents.

11.6 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

11.7 Survival. **Termination Prior to Term Loan Maturity Date**. All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to this Section 11.7 and all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted and any other obligations which, by their terms, are to survive the termination of this Agreement) have been paid in full and satisfied in accordance with the terms of this Agreement. The obligation of Borrower or any other Credit Parties in Section 11.2 to indemnify Indemnified Persons shall survive until the statute of limitations with respect to such claim or cause of action shall have run. So long as all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted and any other obligations which, by their terms, are to survive the termination of this Agreement and for which no claim has been made) have been paid in full and satisfied in accordance with the terms of this Agreement, this Agreement shall be terminated (a) prior to the Term Loan Maturity Date by Borrower, effective five (5) Business Days (or such shorter period as the Collateral Agent may agree in its sole discretion) after written notice of termination is delivered to the Collateral Agent and the Lenders, or (b) if no such notice is delivered, automatically on the Term Loan Maturity Date.

11.8 Confidentiality. Any information regarding the Credit Parties and their Subsidiaries and their businesses provided to the Collateral Agent or any Lender by or on behalf of any Credit Party pursuant to the Loan Documents shall be deemed "Confidential Information"; provided, however, that Confidential Information does not include information that is either: (i) in the public domain or already in the possession of the Collateral Agent, any Lender or any of their respective Affiliates when disclosed to the Collateral Agent, any Lender or any of their respective Affiliates, or becomes part of the public domain after disclosure to the Collateral Agent, any Lender or any of their respective Affiliates, in each case, other than as a result of a breach by the Collateral Agent, any Lender or any of their respective Affiliates of the obligations under this Section 11.8; or (ii) disclosed to the Collateral Agent, any Lender or any of their respective Affiliates by a third party if the Collateral Agent, such Lender or such Affiliate, as applicable, does not know (following reasonable inquiry) that the third party is prohibited from disclosing the information. Neither the Collateral Agent nor any Lender shall disclose any Confidential Information to a third party or use Confidential Information for any purpose other than the administration of the Loan Documents, the exercise of its rights or remedies under the Loan Documents or the performance of its duties or obligations under the Loan Documents. The foregoing in this Section 11.8 notwithstanding, the Collateral Agent and each Lender may disclose Confidential Information: (a) to any of its Subsidiaries or Affiliates; (b) to prospective transferees, purchasers or participants of any interest in the Term Loans (including, for the avoidance of doubt, in connection with any proposed Lender Transfer), provided that no such disclosure to any Disqualified Assignees shall be permitted hereunder without Borrower's prior written consent (which consent shall not be required after the occurrence and during the continuance of an Event of Default); (c) as required by law, regulation, subpoena, or other order, provided, that (x) prior to any disclosure under this clause (c), the Collateral Agent or such Lender, as applicable, agrees to endeavor to provide Borrower with prior written notice thereof, and with respect to any law, regulation, subpoena or other order, to the extent that the Collateral Agent or such Lender is permitted to provide such prior notice to Borrower pursuant to the terms hereof, and (y) any disclosure under this clause (c) shall be limited solely to that portion of the Confidential Information as may be specifically compelled by such law, regulation, subpoena or other order; (d) as the Collateral Agent or any Lender otherwise deems necessary or prudent under Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or Export and Import Laws to applicable regulatory or governmental authorities or pursuant to court order or proceeding, provided, that prior to any

disclosure under this clause (d), the Collateral Agent or such Lender, as applicable, agrees to endeavor to provide Borrower with prior written notice thereof to the extent practicable, and with respect to any law, regulation, subpoena or other order, to the extent that the Collateral Agent or such Lender is permitted to provide such prior notice to Borrower; (e) to the extent requested by regulators having jurisdiction over the Collateral Agent or such Lender or as otherwise required in connection with the Collateral Agent's or such Lender's examination or audit by such regulators (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (f), as the Collateral Agent or such Lender considers reasonably necessary in exercising any rights or remedies under the Loan Documents or in connection with any proceeding relating to the Agreement or any other Loan Documents; (g) to any other party hereto; (h) to third-party service providers of the Collateral Agent or such Lender; and (i) to any of the Collateral Agent's or such Lender's Related Parties; provided, however, that the third parties to which Confidential Information is disclosed pursuant to clauses (a), (b), (h) and (i) are bound by obligations of confidentiality and non-use that are no less restrictive than those contained herein. The provisions of this Section 11.8 shall survive the termination of this Agreement.

11.9 Attorney's Fees, Costs and Expenses. In any action or proceeding between, on the one hand, any Credit Party and, on the other hand, the Collateral Agent or any Lender, arising out of or relating to the Loan Documents other than in connection with the enforcement against any Credit Party of this Agreement or any other Loan Document, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

11.10 Right of Set-Off. In addition to any rights now or hereafter granted under Requirements of Law and not by way of limitation of any such rights, upon the occurrence of an Event of Default and at any time thereafter during the continuance of any Event of Default, each Lender is hereby authorized by each Credit Party at any time or from time to time, without prior notice to any Credit Party, any such notice being hereby expressly waived by Borrower (on its own behalf and on behalf of each other Credit Party), to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Lender to or for the credit or the account of any Credit Party against and on account of the obligations and liabilities of any Credit Party to such Lender hereunder and under the other Loan Documents, including all claims of any nature or description arising out of or connected hereto or with any other Loan Document, irrespective of whether or not (a) the Collateral Agent or such Lender shall have made any demand hereunder or (b) the principal of or the interest on the Term Loans or any other amounts due hereunder shall have become due and payable pursuant to Section 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured. Each Lender agrees promptly to notify Borrower and the Collateral Agent after any such set off and application made by such Lender; provided, that the failure to give such notice shall not affect the validity of such set off and application.

11.11 Marshalling; Payments Set Aside. Neither the Collateral Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to any Lender, or the Collateral Agent or any Lender enforces any Liens or exercises its rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver, examiner or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, 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.

11.12 Electronic Execution of Documents. The words "execution," "signed," "signature," and words of like import in this Agreement and the other Loan Documents shall be deemed to include electronic signatures or electronic records, 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 Requirements of 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.

11.13 Captions. 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.

11.14 Construction of Agreement. The parties hereto mutually acknowledge that they and their respective attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty, this Agreement shall be construed without regard to which of the parties hereto caused the uncertainty to exist.

11.15 Third Parties. Nothing in this Agreement, whether express or implied, is intended to: (a) except as expressly provided in Section 11.2(a), confer any benefits, rights or remedies under or by reason of this Agreement on any Persons other than the express parties to it and their respective successors and permitted assigns; (b) relieve or discharge the obligation or liability of any Person not an express party to this Agreement; or (c) give any Person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

11.16 No Advisory or Fiduciary Duty. The Collateral Agent and each Lender may have economic interests that conflict with those of the Credit Parties. Each Credit Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender or the Collateral Agent, on the one hand, and such Credit Party, its Subsidiaries, and any of their respective stockholders or affiliates, on the other hand. Each Credit Party acknowledges and agrees that (i) the transactions contemplated by the Loan Documents are arm's-length commercial transactions between each Lender and the Collateral Agent, on the one hand, and such Credit Party, its Subsidiaries and their respective affiliates, on the other hand, (ii) in connection therewith and with the process leading to such transaction, the Collateral Agent and each Lender is acting solely as a principal and not the advisor, agent or fiduciary of such Credit Party, its Subsidiaries or their respective affiliates, management, stockholders, creditors or any other Person, (iii) neither the Collateral Agent nor any Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its Subsidiaries or their respective affiliates with respect to the transactions contemplated hereby or the process leading thereto (irrespective of whether the Collateral Agent or any Lender or any of their respective affiliates has advised or is currently advising such Credit Party, its Subsidiaries or their respective affiliates on other matters) or any other obligation to such Credit Party, its Subsidiaries or their respective affiliates except the obligations expressly set forth in the Loan Documents, and (iv) each Credit Party, its Subsidiaries and their respective affiliates have consulted their own legal and financial advisors to the extent each deemed appropriate. Each Credit Party further acknowledges and agrees that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it will not claim that the Collateral Agent or any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, its Subsidiaries or their respective affiliates in connection with such transaction or the process leading thereto.

11.17 Credit Parties' Agent. Each of the Credit Parties hereby irrevocably appoints Borrower, as its agent, attorney-in-fact and legal representative for all purposes, including requesting disbursement of the Term Loans and receiving account statements and other notices and communications to Credit Parties (or any of them) from the Collateral Agent or the Lenders, executing amendments, waivers or other modifications of or supplements to Loan Documents and executing or designating new Loan Documents. The Collateral Agent or the Lenders may rely, and shall be fully protected in relying, on any request for the Term Loans, disbursement instruction, report, information or any other notice or communication made or given by Borrower and any amendment, waiver or other modification of or supplement to a Loan Document or the execution or designation of new Loan Documents executed or made by Borrower, whether in its own name or on behalf of one or more of the other Credit Parties, and the Collateral Agent or the Lenders shall not have any obligation to make any inquiry or request any confirmation from or on behalf of any other Credit Party as to the binding effect on it of any such request, instruction, report, information, other notice, communication, amendment, supplement, waiver, other modification, execution or designation, nor shall the joint and several character of the Credit Parties' obligations hereunder be affected thereby.

12 COLLATERAL AGENT

12.1 Appointment and Authority. Each Lender hereby irrevocably appoints BioPharma Credit PLC to act on its behalf as the Collateral Agent hereunder and under the other Loan Documents and authorizes the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Collateral Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except for the first two (2) sentences of Section 12.6 and the first sentence and penultimate paragraph of Section 12.8, the provisions of this Section 12 are solely for the benefit of the Collateral Agent and Lenders, and neither Borrower nor any other Credit Party shall have rights as a third party beneficiary of any of such provisions. Subject

to Section 12.8 and Section 11.5, any action required or permitted to be taken by the Collateral Agent hereunder shall be taken with the prior approval of the Required Lenders.

12.2 Rights as a Lender. The Person serving as the Collateral Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Collateral Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Collateral Agent hereunder in its individual capacity. Such Person and its Affiliates may 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 business with Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Collateral Agent hereunder and without any duty to account therefor to any Lender.

12.3 Exculpatory Provisions.

(a) The Collateral Agent shall not have any duties or obligations to the Lenders except those expressly set forth herein and in the other Loan Documents to which it is a party. Without limiting the generality of the foregoing, with respect to the Lenders, the Collateral Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) 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 to which it is a party that the Collateral 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 such other Loan Documents), provided that the Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Collateral Agent to liability or that is contrary to any Loan Document or Requirements of Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents to which it is a party, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Credit Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Collateral Agent or any of its Affiliates in any capacity.

(b) The Collateral 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 Collateral Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 11.5) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Collateral Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Collateral Agent in writing by Borrower or a Lender.

(c) The Collateral Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any 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 covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 3 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Collateral Agent.

12.4 Reliance by Collateral Agent. The Collateral Agent 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. The Collateral 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. The Collateral Agent may consult with legal counsel (who may be counsel for Borrower), independent accountants, manufacturing consultants 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, consultants or experts.

12.5 Delegation of Duties. The Collateral Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Collateral Agent. The Collateral 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 Related Parties. The exculpatory provisions of this Section 12 shall apply to any such sub-agent and to the Related Parties of the Collateral Agent and any such sub-agent. The Collateral Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Collateral Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

12.6 Resignation of Collateral Agent. The Collateral Agent may at any time give notice of its resignation to the Lenders and Borrower. Upon the receipt of any such notice of resignation, the Required Lenders shall have the right, with Borrower's prior written consent so long as no Default or Event of Default has occurred and is continuing, to appoint a successor; provided, however, that Borrower's consent shall not be required to the extent the successor is an Affiliate of the Collateral Agent or any Lender (provided that such Collateral Agent shall consult with Borrower regarding such appointment prior to the effectiveness thereof). If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Collateral Agent gives notice of its resignation, then the retiring Collateral Agent may, on behalf of the Lenders, appoint a successor Collateral Agent that is a Related Party of the Collateral Agent or any Lender; provided that, whether or not a successor has been appointed or has accepted such appointment, such resignation shall become effective upon delivery of the notice thereof. Upon the acceptance of a successor's appointment as Collateral Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Collateral Agent, and the retiring Collateral Agent shall be discharged from all of its duties and obligations under the Loan Documents (if not already discharged therefrom as provided above in this Section 12.6), other than its obligations under Section 11.8. After the retiring Collateral Agent's resignation, the provisions of this Section 12 and Section 10 shall continue in effect for the benefit of such retiring Collateral Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Collateral Agent was acting as Collateral Agent. Upon any resignation by the Collateral Agent, all payments, communications and determinations provided to be made by, to or through the Collateral Agent shall instead be made by, to or through each Lender directly, until such time as a Person accepts an appointment as Collateral Agent in accordance with this Section 12.6.

12.7 Non-Reliance on Collateral Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Collateral Agent or any other Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and make Credit Extensions hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Collateral Agent or any other Lender or any of their respective Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

12.8 Collateral and Guaranty Matters. Each Lender agrees that any action taken by the Collateral Agent or the Required Lenders in accordance with the provisions of this Agreement or of the other Loan Documents, and the exercise by the Collateral Agent or Required Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. Without limiting the generality of the foregoing, the Lenders irrevocably authorize and instruct the Collateral Agent, and the Collateral Agent agrees:

(a) to release any Lien on any property granted to or held by the Collateral Agent under any Collateral Document (i) upon payment and satisfaction in full of all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) in accordance with the terms of this Agreement, (ii) that is sold, transferred, disposed or to be sold, transferred, disposed as part of or in connection with any sale, transfer or other disposition (other than any sale to a Credit Party) permitted hereunder, (iii) subject to Section 11.5, if approved, authorized or ratified in writing by the Required Lenders, or (iv) to the extent such property is owned by a Guarantor, upon the release of such Guarantor from its obligations under the Loan Documents pursuant to clause (c) below;

(b) to subordinate any Lien on any property granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by clauses (d), (i), (j), (m), (n) and (r) of the definition of "Permitted Liens" (solely with respect to modifications, replacements, extensions or renewals of Liens permitted under clauses (d), (i), (j), (m) and (n) of the definition of "Permitted Liens");

(c) to release any Guarantor from its obligations under each Collateral Document if such Person ceases to be a Subsidiary (or becomes an Excluded Subsidiary (to the extent not designated by Borrower to be a Discretionary Guarantor)) as a result of a transaction permitted hereunder or upon payment and satisfaction in full of all Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) in accordance with this Agreement;

(d) to enter into non-disturbance and similar agreements in connection with the licensing of Intellectual Property permitted pursuant to the terms of this Agreement; and

(e) to enter into any subordination, intercreditor or other similar agreement with respect to any Permitted Indebtedness that constitutes Subordinated Debt.

Without prejudice to the obligation to fulfill the foregoing, upon request by the Collateral Agent at any time, the Required Lenders will confirm in writing the 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 each Collateral Document pursuant to this Section 12.8.

In each case as specified in this Section 12.8, the Collateral Agent will (and each Lender irrevocably authorizes and instructs the Collateral Agent to), at Borrower's expense, (A) deliver to Borrower any Collateral that is in the Collateral Agent's possession in connection with the release of the Collateral Agent's Lien thereon, and (B) execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request (i) to evidence the release or subordination of such item of Collateral from the Liens and security interests granted under the Collateral Documents, (ii) to enter into non-disturbance or similar agreements in connection with the licensing of Intellectual Property, (iii) to enter into any subordination, intercreditor or other similar agreement with respect to any Permitted Indebtedness that constitutes Subordinated Debt or (iv) to evidence the release of any Guarantor (as applicable) from its obligations under each Collateral Document, in each case in accordance with the terms of the Loan Documents and this Section 12.8 and in form and substance reasonably acceptable to the Collateral Agent.

Without limiting the generality of Section 12.9 below, the Collateral Agent shall deliver to the Lenders notice of any action taken by it under this Section 12.8 promptly after the taking thereof; provided that delivery of or failure to deliver any such notice shall not affect the Collateral Agent's rights, powers, privileges and protections under this Section 12.

12.9 Reimbursement by Lenders. To the extent that Borrower for any reason fails to indefeasibly pay any amount required under Section 2.4 to be paid by it to the Collateral Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Collateral Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's *pro rata* share (based upon the percentages as used in determining the Required Lenders as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, damage, liability or related expense, as the case may be, was incurred by or asserted against the Collateral Agent (or any such sub-agent) in its capacity as such or against any Related Party of any of the foregoing acting for the Collateral Agent (or any sub-agent) in connection with such capacity.

12.10 Notices and Items to Lenders. The Collateral Agent shall deliver to the Lenders each notice, report, statement, approval, direction, consent, exemption, authorization, waiver, certificate, filing or other item received by it pursuant to this Agreement or any other Loan Document (including any item received by it pursuant to Section 3 or 5.14); provided, that any delivery of or failure to deliver any such notice, report, statement, approval, direction, consent, exemption, authorization, waiver, certificate, filing or item shall not otherwise alter or effect the rights of the Lenders or the Collateral Agent under this Agreement or any other Loan Document or the validity of such item. In addition, to the extent the Collateral Agent or the Required Lenders deliver any notices, approvals, authorizations, directions, consents or waivers to Borrower pursuant to this Agreement or any other Loan Document, the Collateral Agent or the Required Lenders, as applicable, will also deliver such notice, approval, authorization, direction, consent or waiver to the other Lenders on or about the same time such notice, approval, authorization, direction, consent or waiver is provided to Borrower; provided, that the delivery of or failure to deliver such notice, approval, authorization, direction, consent or waiver to the other Lenders shall not in any way effect the obligations of Borrower, or the rights of the Collateral Agent or the Required Lenders, in respect of such notice, approval, authorization, direction, consent or waiver or the validity thereof.

12.11 Administrative Agent. After the Effective Date, Borrower may appoint an administrative agent reasonably acceptable to the Collateral Agent (the "**Administrative Agent**") to undertake the maintenance of the Register, serve as the Withholding Agent and make payments to Lenders (and the Collateral Agent, if applicable) in accordance with the terms of this Agreement and the other Loan Documents, pursuant to the agreement (including

any joinder hereto) among Borrower, the Collateral Agent and the Administrative Agent (the "**Administrative Agent Documents**").

13 DEFINITIONS

13.1 Definitions. For the purposes of and as used in the Loan Documents: (a) references to any Person include its successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities; (b) except as the context otherwise requires (including to the extent otherwise expressly provided in any Loan Document), (i) references to any law, statute, treaty, order, policy, rule or regulation include any amendments, supplements and successors thereto and (ii) references to any contract, agreement, consent, waiver, instrument or other document include any amendments, restatements, amendments and restatements, supplements or modifications thereto or thereof from time to time to the extent permitted by the provisions thereof; (c) the word "shall" is mandatory; (d) the word "may" is permissive; (e) the word "or" has the inclusive meaning represented by the phrase "or"; (f) the words "include", "includes" and "including" are not limiting; (g) the singular includes the plural and the plural includes the singular; (h) numbers denoting amounts that are set off in parentheses are negative unless the context dictates otherwise; (i) each authorization herein shall be deemed irrevocable and coupled with an interest; (j) all accounting terms shall be interpreted, and all determinations relating thereto shall be made, in accordance with GAAP; (k) references to any time of day shall be to New York time; (l) the words "herein", "hereof", "hereby", "hereto" and "hereunder" refer to this Agreement as a whole; and (m) unless otherwise expressly provided, references to specific sections, articles, clauses, sub-clauses, annexes and exhibits are to this Agreement and references to specific schedules are to the Disclosure Letter. The provisions of this Section 13.1 shall survive the termination of this Agreement. As used in this Agreement, the following capitalized terms have the following meanings:

"**Account**" means any "account" as defined in the Code with such additions to such term as may hereafter be made, and includes all accounts receivable, book debts, and other sums owing to Credit Parties.

"**Account Debtor**" means any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

"**Acquisition**" means (a) any Stock Acquisition, or (b) any Asset Acquisition.

"**Additional Consideration**" means, individually or collectively, as the context dictates, the Tranche A Additional Consideration, the Tranche B Additional Consideration, the Tranche C Additional Consideration and the Tranche D Additional Consideration.

"**Administrative Agent**" is defined in Section 12.11.

"**Administrative Agent Documents**" is defined in Section 12.11.

"**Advance Request Form**" means a Loan Advance Request Form in substantially the form attached hereto as Exhibit A.

"**Adverse Proceeding**" means any action, suit, proceeding, hearing (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of any Credit Party or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claims), whether pending or, to the Knowledge of Borrower, threatened in writing against or adversely affecting any Credit Party or any of its Subsidiaries or any property of Borrower or any of its Subsidiaries.

"**Affiliate**" means, with respect to any Person, each other Person that owns or controls, directly or indirectly, such Person, any other Person that controls or is controlled by or is under common control with such Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company or limited liability partnership, that Person's managers and members. As used in this definition, "control" means (a) direct or indirect beneficial ownership of at least fifty percent (50%) (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction) of the voting share capital or other equity interest in a Person or (b) the power to direct or cause the direction of the management of such Person by contract or otherwise. In no event shall the Collateral Agent, the Intercreditor Agent or any Lender be deemed to be an Affiliate of Borrower or any of its Subsidiaries.

"**Agreement**" is defined in the preamble hereof.

"**Anti-Corruption Laws**" is defined in Section 4.18(a).

"**Amendment to the Intercreditor Agreement**" means that certain Amendment and Joinder to the Intercreditor Agreement, dated as of the Tranche A Closing Date, among the Collateral Agent (in substitution of Athyrium), RPI and OMERS, and acknowledged and agreed to by Borrower and each Credit Party.

"**Anti-Money Laundering Laws**" is defined in Section 4.18(b).

"**Applicable Margin**" means, for any day, as to any Term Loan, a rate *per annum* equal to seven percent (7.00%); provided, however, that in the event of a PIK Election pursuant to Section 2.3(a)(iv), the Applicable Margin used to calculate the Term Loan Rate for purposes of determining the interest under the Tranche A Loan for each Interest Period for which a PIK Election has been made shall be a rate *per annum* equal to seven and one-quarter percent (7.25%).

"**Applicable Percentage**" means at any time: (a) with respect to the Tranche A Loan or the Tranche A Loan Amount, the percentage equal to a fraction, the numerator of which is (i) on or prior to the Tranche A Closing Date, the amount of such Lender's Tranche A Commitment at such time and the denominator of which is the Tranche A Loan Amount at such time or (ii) thereafter, the outstanding principal amount of such Lender's portion of the Tranche A Loan at such time, and the denominator of which is the aggregate outstanding principal amount of the Tranche A Loan at such time; (b) with respect to the Tranche B Loan or the Tranche B Loan Amount, the percentage equal to a fraction, the numerator of which is (i) on or prior to the Tranche B Closing Date, the amount of such Lender's Tranche B Commitment at such time and the denominator of which is the Tranche B Loan Amount at such time or (ii) thereafter, the outstanding principal amount of such Lender's portion of the Tranche B Loan at such time, and the denominator of which is the aggregate outstanding principal amount of the Tranche B Loan at such time; (c) with respect to the Tranche C Loan or the Tranche C Loan Amount, the percentage equal to a fraction, the numerator of which is (i) on or prior to the Tranche C Closing Date, the amount of such Lender's Tranche C Commitment at such time and the denominator of which is the Tranche C Loan Amount at such time or (ii) thereafter, the outstanding principal amount of such Lender's portion of the Tranche C Loan at such time, and the denominator of which is the aggregate outstanding principal amount of the Tranche C Loan at such time; (d) with respect to the Tranche D Loan or the Tranche D Loan Amount, the percentage equal to a fraction, the numerator of which is (i) on or prior to the Tranche D Closing Date, the amount of such Lender's Tranche D Commitment at such time and the denominator of which is the Tranche D Loan Amount at such time or (ii) thereafter, the outstanding principal amount of such Lender's portion of the Tranche D Loan at such time, and the denominator of which is the aggregate outstanding principal amount of the Tranche D Loan at such time; and (e) with respect to the Term Loans and the Term Loan Commitments, the percentage equal to a fraction, the numerator of which is, the sum of the amount of such Lender's outstanding Term Loan Commitments and the amount of such Lender's portion of the outstanding principal amount of the Term Loans at such time, and the denominator of which is the sum of the amount of all outstanding Term Loan Commitments and the aggregate outstanding principal amount of the Term Loans at such time.

"**Approved Fund**" means any Person (other than a natural Person) that is or will be engaged in making, purchasing, holding or otherwise investing in notes, loans or similar extensions of credit in the ordinary course of its activities, in each case that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or Affiliate of an entity that administers or manages a Lender.

"**ASC**" is defined in Section 1.

"**Asset Acquisition**" means, with respect to Borrower or any of its Subsidiaries, any purchase, exclusive in-license or other acquisition of any properties or assets of any other Person (including any purchase or other acquisition of any business unit, line of business or division of such Person). Notwithstanding the foregoing, "Asset Acquisition" does not include any in-license or any collaboration, co-promotion or co-marketing arrangement pursuant to which Borrower or any Subsidiary acquires rights to research, develop, use, make, promote, sell, lease or market the products of another Person.

"**Athyrium**" means, collectively, Athyrium Opportunities III Co-Invest 1 LP and its Affiliates.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if the then-current Benchmark is a term rate, any tenor for such Benchmark or that is or may be used for determining the length of an Interest Period or (b) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any payment period for interest calculated with reference to such

Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 2.3(f).

"**Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute (and any foreign equivalent).

"Benchmark" means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.3(f).

"**Benchmark Replacement**" means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by the Collateral Agent for the applicable Benchmark Replacement Date:

(a) Daily Simple SOFR; and

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Collateral Agent and Borrower giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (ii) the related Benchmark Replacement Adjustment;

provided that, if the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

"**Benchmark Replacement Adjustment**" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement (other than Daily Simple SOFR), the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Collateral Agent and Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

"**Benchmark Replacement Date**" means a date and time determined by the Collateral Agent in its reasonable discretion, which date shall be no later than the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); and

(b) in the case of clause (c) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) above with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Transition Event**" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Unavailability Period**" means, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.3(f) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.3(f).

"**BioCryst Canada**" means BioCryst Canada, ULC, a Canadian unlimited liability corporation.

"**Blocked Person**" means an individual or entity that is, or is owned or controlled by individuals or entities that are: (i) the subject or target of blocking or asset-freezing Sanctions; or (ii) located, organized or resident in a Sanctioned Country.

"**Board of Directors**" means, with respect to any Person, (i) in the case of any corporation, the board of directors of such Person, (ii) in the case of any limited liability company, the board of managers of such Person, or if there is none, the Board of Directors of the managing member of such Person, (iii) in the case of any partnership or exempted limited partnership, the Board of Directors of the general partner of such Person and (iv) in any other case, the functional equivalent of the foregoing.

"**Board of Governors**" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"**Books**" means all books and records including ledgers, records regarding a Credit Party's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrower**" is defined in the preamble hereof.

"**Borrowing Resolutions**" means, with respect to any Credit Party, those resolutions adopted by such Credit Party's Board of Directors and delivered by such Credit Party to the Collateral Agent pursuant to Section 3.1(d) approving the Loan Documents to which such Credit Party is a party and the transactions contemplated thereby (including the Tranche A Loans, Tranche B Loans, Tranche C Loans and Tranche D Loans).

"**Business Day**" means any day that is not a Saturday or a Sunday or a day on which banks are authorized or required to be closed in New York, New York or London, England.

"**Capital Lease**" means, as applied to any Person, any lease of, or other arrangement conveying the right to use, any property by that Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with GAAP (subject to Section 1 hereof).

"**Capital Lease Obligations**" means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with GAAP.

"**Cash Equivalents**" means:

(a) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government or by the government of any other member country of the Organisation for Economic Co-operation and Development ("OECD") (provided that the full faith and credit of the United States or such other member country of OECD, as applicable, is pledged in support of those securities) or any agency or instrumentality of the OECD, in each case, having maturities of not more than two (2) years from the date of acquisition;

(b) certificates of deposit, time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits and demand deposits, in each case, with any commercial bank having (i) capital and surplus in excess of $500,000,000 in the case of U.S. banks or (ii) capital and surplus in excess of $100,000,000 (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks or a rating for its long-term unsecured and noncredit enhanced debt obligations of "A" or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or "A2" or higher by Moody's Investors Service Limited;

(c) commercial paper or marketable short-term money market or readily marketable direct obligations and similar securities having a credit rating of either A-1 or higher by Standard & Poor's Rating Service or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, and, in each case, maturing within two (2) years after the date of acquisition;

(d) repurchase obligations with a term of not more than seven (7) days for underlying securities of the types described in clauses (a) and (c) above entered into with any financial institution meeting the qualifications specified in clause (b) above;

(e) investment funds investing ninety-five percent (95.0%) of their assets in securities of the types described in clauses (a) through (d) above and clause (f) below;

(f) investments in money market funds which have a credit rating of either A-1 or higher by Standard & Poor's Rating Service or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited (or, if at any time none of Fitch Ratings Ltd, Moody's Investors Service Limited or Standard & Poor's Rating Service shall be rating such obligations, an equivalent rating from another rating agency) and that have portfolio assets of at least $1,000,000,000; and

(g) other investments in accordance with Borrower's investment policy as of the Effective Date or otherwise approved in writing by the Collateral Agent (such approval not to be unreasonably withheld, conditioned or delayed).

"**CCPA**" means the provisions of the California Consumer Privacy Act, as amended by the California Privacy Rights Act and codified at Cal. Civ. Code § 1798.100 *et seq* with any implementing regulations.

"**Change in Control**" means: (a) a transaction or series of transactions (including any merger or consolidation involving Borrower) whereby any "person" or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person or its Subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) (i) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than fifty percent (50.0%) of the outstanding Equity Interests of Borrower ordinarily entitled to vote in the election of directors, or (ii) obtains the power (whether or not exercised) to elect a majority of directors of Borrower; (b) a sale, directly or indirectly, of all or substantially all of the consolidated assets of Borrower and its Subsidiaries in one transaction or a series of transactions (whether by way of merger, stock purchase, asset purchase or otherwise); or (c) a merger or consolidation involving Borrower in which Borrower is not the surviving Person.

"**Change in Control Notice**" is defined in Section 2.2(c)(ii).

"**Change in Law**" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking into effect of any law, treaty, order, policy, rule or regulation, (b) any change in any law, treaty, order, policy, rule or regulation or in the administration, published interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"**Closing Date**" means the Tranche A Closing Date, the Tranche B Closing Date, the Tranche C Closing Date, or the Tranche D Closing Date, as applicable.

"**CMIA**" means the California Confidentiality of Medical Information Act, codified at Cal. Civ. Code pt. 2.6 § 56 *et seq*.

"**Code**" means the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of New York; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern; provided, further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, the Collateral Agent's Lien, for the benefit of Lenders and the other Secured Parties, on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" means, collectively, "Collateral", as such term is defined in the Security Agreement, "Secured Assets," as such term is defined in the Irish Collateral Documents, and any and all other assets and properties of whatever kind and nature subject or purported to be subject from time to time to a Lien under any Collateral Document, but in any event excluding all Excluded Property.

"**Collateral Access Agreement**" means an agreement, in form and substance reasonably satisfactory to the Collateral Agent and to which the Collateral Agent is a party, pursuant to which a mortgagee or lessor of real property on which Collateral is stored or otherwise located, or a warehouseman, processor or other bailee of Inventory or other property owned by any Credit Party, acknowledges the Liens and security interests of the Collateral Agent, for the benefit of Lenders and the other Secured Parties, and waives (or, if approved by the Collateral Agent in its sole discretion, subordinates) any Liens or security interests held by such Person on any such Collateral, and, in the case of any such agreement with a mortgagee or lessor, permits the Collateral Agent and any Lender (and its representatives and designees) reasonable access to any Collateral stored or otherwise located thereon.

"**Collateral Account**" means any Deposit Account of a Credit Party maintained with a bank or other depository or financial institution located in the United States or Ireland, any Securities Account of a Credit Party maintained with a securities intermediary located in the United States or Ireland, or any Commodity Account of a Credit Party maintained with a commodity intermediary located in the United States or Ireland, in each case, other than an Excluded Account.

"**Collateral Agent**" is defined in the preamble hereof.

"**Collateral Documents**" means the Security Agreement, the Irish Collateral Documents, Control Agreements, the IP Agreements, any Mortgages and all other instruments, documents and agreements delivered by any Credit Party pursuant or incidental to this Agreement or any of the other Loan Documents, in each case, in order to grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, or perfect a Lien on any Collateral as security for the Obligations, and all amendments, restatements, modifications or supplements thereof or thereto.

"**Commodity Account**" means any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Common Rule**" means the U.S. Federal Policy for the Protection of Human Subjects, codified at 45 C.F.R. part 46, and any foreign (or United States state) equivalents.

"**Company IP**" means any and all of the following, as they exist in and throughout the Territory: (a) Current Company IP; (b) improvements, continuations, continuations-in-part, divisions, provisionals or any substitute applications with respect to any Current Company IP, any patent issued with respect to any of the Current Company IP, including any patent right claiming the apparatus, system, component or composition of matter of, or the method of making or using, Product in the Territory, any reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent and all foreign and international counterparts of any of the foregoing, and any confirmation patent or registration patent or patent of addition based on any such patent; (c) Current Company Trade Secrets, including any rights to unpatented inventions, know-how, show-how, operating manuals, confidential or proprietary information, research in progress, algorithms, data, databases, data collections, designs, processes, procedures, methods, protocols, materials, formulae, drawings, schematics, blueprints, flow charts, models, strategies, prototypes, techniques, and the results of experimentation and testing, including samples; and (d) to the extent not described in clauses (a), (b) or (c) above, any and all IP Ancillary Rights specifically relating to any of the foregoing that are material to the business of Borrower and its Subsidiaries, taken as a whole, including, for the avoidance of doubt, all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other intellectual property right ancillary to any Current Company IP or Current Company Trade Secrets.

"**Company IP Agreement**" means each material contract or agreement, pursuant to which Borrower or any of its Subsidiaries has the legal right to exploit Current Company IP or other Intellectual Property that is owned by another Person and material to the business of Borrower and its Subsidiaries, to research, develop, manufacture, produce, use, supply, commercialize, market, import, store, transport, offer for sale, distribute or sell Product in the Territory.

"**Competitor**" means, at any time of determination, any Person (and each other Person that owns or controls, directly or indirectly, such Person, or that controls or is controlled by or is under common control with such Person) that is directly and primarily engaged in the same, substantially the same, or similar line of business as Borrower and its Subsidiaries, taken as a whole, as of such time.

"**Compliance Certificate**" means that certain certificate in the form attached hereto as Exhibit E.

"**Conforming Changes**" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods and other technical, administrative or operational matters) that the Collateral Agent decides (after consultation with Borrower) may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Collateral Agent in a manner substantially consistent with market practice (or, if the Collateral Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Collateral Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Collateral Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"**Contingent Obligation**" means, for any Person, (a) any direct or indirect liability, contingent or not, of that Person for any indebtedness, lease, dividend, letter of credit or other obligation of another Person directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable (other than by endorsements of instruments in the course of collection) and (b) any obligation of that Person to pay an earn-out payment, milestone payment or similar contingent payment or contingent compensation (including purchase price adjustments but excluding royalties payable and milestones based on net sales payable) to a counterparty incurred or created in connection with an Acquisition, Transfer, or Investment or otherwise in connection with any collaboration, development or similar agreement, in each instance where such contingent payment or compensation becomes due and payable upon the occurrence of an event or the performance of an act (and not solely with the passage of time). The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable by a Responsible Officer of such Person, the amount required to be shown as a liability on the balance sheet of such

Person in accordance with GAAP (or, if not required to be so shown, the maximum reasonably anticipated amount reasonably determined by a Responsible Officer of such Person in good faith); but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement. Notwithstanding anything to the contrary in the foregoing, Permitted Equity Derivatives shall not constitute a Contingent Obligation.

"**Control Agreement**" means, with respect to any Credit Party, any control agreement entered into among such Credit Party, the Collateral Agent and, in the case of a Deposit Account, the bank or other depository or financial institution located in the United States at which such Credit Party maintains such Deposit Account, or, in the case of a Securities Account or a Commodity Account, the securities intermediary or commodity intermediary located in the United States at which such Credit Party maintains such Securities Account or Commodities Account, in either case, pursuant to which the Collateral Agent obtains control (within the meaning of the Code), or otherwise has a perfected first priority security interest (subject to any Permitted Liens), over such Collateral Account.

"**Convertible Indebtedness Redemption**" is defined in Section 2.2(c)(iii).

"**Convertible Indebtedness Redemption Notice**" is defined in Section 2.2(c)(iii).

"**Copyrights**" means any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret (and all related IP Ancillary Rights).

"**Credit Extension**" means any Term Loan or any other extension of credit by any Lender for Borrower's benefit pursuant to this Agreement.

"**Credit Party**" means Borrower and each Guarantor (including, for the avoidance of doubt, any Discretionary Guarantor).

"**Current Company IP**" is defined in Section 4.6(c).

"**Current Company Trade Secrets**" is defined in Section 4.6(c)(iii).

"**Daily Simple SOFR**" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Collateral Agent in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for bilateral business loans; provided, that if the Collateral Agent decides that any such convention is not administratively feasible for the Collateral Agent, then the Collateral Agent may establish another convention in its reasonable discretion.

"**Data Protection Laws**" means any and all applicable foreign or domestic (including U.S. federal, state and local), statutes, ordinances, orders, rules, regulations, judgments, Governmental Approvals, or any other requirements of Governmental Authorities relating to privacy, security, notification of breaches or confidentiality of Personal Data or other Sensitive Information, in each case, in any manner applicable to any Credit Party or any of its Subsidiaries, including, to the extent applicable, HIPAA, Section 5 of the FTC Act and other consumer protection laws, GDPR, APPI, CCPA and other comprehensive state privacy laws, CMIA and other U.S. state medical information privacy laws and genetic testing laws.

"**Default**" means any breach of or default under any term, provision, condition, covenant or agreement contained in this Agreement or any other Loan Document or any other event, in each case that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"**Default Rate**" is defined in Section 2.3(b).

"**Deposit Account**" means any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Disclosure Letter**" means the disclosure letter, dated the Effective Date, delivered by the Credit Parties to the Collateral Agent pursuant to Section 3.1(a), as may be updated on the applicable Closing Date (if required and as permitted hereunder).

"**Discretionary Guarantor**" is defined in Section 5.13.

"**Disqualified Assignee**" means (a) any Competitor, (b) any Person listed on Schedule 13.1 of the Disclosure Letter as of the Effective Date or (c) any Affiliate of any Person described in clause (a) or (b) above, other than an Affiliate that is a Person (other than a natural Person) that is or will be engaged in making, purchasing, holding or otherwise investing in notes, loans or similar extensions of credit in the ordinary course of its activities.

"**Disqualified Equity Interest**" 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: (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (except if redeemable or convertible into other Equity Interest that would not constitute a Disqualified Equity Interest or as a result of a change of control, asset sale or similar event so long as any and all rights of the holders thereof upon the occurrence of a change of control, asset sale or similar event shall be subject to the prior repayment in full in cash of the Term Loans and the satisfaction in full of all other Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) in accordance with the terms of this Agreement); (b) is redeemable at the option of the holder thereof, in whole or in part (except if redeemable or convertible into other Equity Interest that would not constitute a Disqualified Equity Interest or as a result of a change of control, asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale or similar event shall be subject to the prior repayment in full in cash of the Term Loans and the satisfaction in full of all other Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto have been asserted) in accordance with this Agreement); (c) provides for the scheduled payments of dividends or distributions in cash; or (d) is convertible into or exchangeable for (i) Indebtedness which is not Permitted Indebtedness or (ii) any other Equity Interest that would constitute a Disqualified Equity Interest; in each case described in clauses (a) through (d) above, prior to the date that is 180 days after the Term Loan Maturity Date; provided that, if any such Equity Interest is issued pursuant to any plan for the benefit of any employee, director, manager or consultant of Borrower or its Subsidiaries or by any such plan to such employee, director, manager or consultant, such Equity Interest shall not constitute a "Disqualified Equity Interest" solely because it may be required to be repurchased by Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of the termination, death or disability of such employee, director, manager or consultant.

"**Dollars**," "**dollars**" or use of the sign "**$**" means only lawful money of the United States and not any other currency, regardless of whether that currency uses the "$" sign to denote its currency or may be readily converted into lawful money of the United States.

"**Domestic Subsidiary**" means, with respect to any Credit Party, a Subsidiary of such Credit Party that is incorporated or organized under the laws of the United States.

"**Effective Date**" is defined in the preamble hereof.

"**Environmental Claim**" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"**Environmental Laws**" means any and all current or future, foreign or domestic, statutes, ordinances, orders, rules, regulations, judgments, Governmental Approvals, or any other requirements of Governmental Authorities relating to (i) environmental matters, including those relating to any Hazardous Materials Activity; (ii) the generation, use, storage, transportation or disposal of Hazardous Materials; or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in each case, in any manner applicable to any Credit Party or any of its Subsidiaries or any Facility.

"**Equity Interests**" means, with respect to any Person, collectively, any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in such Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire (by purchase, conversion, dividend, distribution or otherwise) any of the foregoing (and all other rights, powers, privileges, interests, claims and other property in any manner arising therefrom or relating thereto); provided, however, that any Permitted Convertible Indebtedness or other Indebtedness convertible into Equity Interests (or into any combination of cash and Equity Interests based on the value of such Equity Interests) shall not constitute Equity Interests unless and until (and solely to the extent) so converted into Equity Interests.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, and the regulations promulgated thereunder.

"**ERISA Affiliate**" means, with respect to any Person, any trade or business (whether or not incorporated) that, together with such Person, is treated as a single employer under Section 414(b) or (c) of the IRC or, solely for purposes of Section 302 of ERISA or Section 412 of the IRC, Section 414(m) or (o) of the IRC.

"**ERISA Event**" means (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period is waived by regulation); (b) with respect to a Plan, the failure by Borrower or its Subsidiaries or their ERISA Affiliates to satisfy the minimum funding standard of Section 412 of the IRC and Section 302 of ERISA, whether or not waived; (c) the failure by Borrower or its Subsidiaries or their ERISA Affiliates to make by its due date a required installment under Section 430(j) of the IRC with respect to any Plan or to make any required contribution to a Multiemployer Plan; (d) the filing pursuant to Section 412(c) of the IRC or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the incurrence by Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) the receipt by Borrower or its Subsidiaries or any of their respective ERISA Affiliates from the Pension Benefit Guaranty Corporation (referred to and defined in ERISA) or a plan administrator of any notice relating to the intention to terminate any Plan under Section 4041 or any Multiemployer Plan under 4041A of ERISA or to appoint a trustee to administer any Plan under Section 4042 of ERISA, or the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Plan under Section 4041 Section or 4042 of ERISA; (g) the incurrence by Borrower or its Subsidiaries or any of their respective ERISA Affiliates of any liability with respect to the withdrawal from any Plan pursuant to Section 4063 of ERISA or Multiemployer Plan; (h) the receipt by Borrower or its Subsidiaries or any of their respective ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Section 4245 of ERISA; (i) the "substantial cessation of operations" by Borrower or its Subsidiaries or their ERISA Affiliates within the meaning of Section 4062(e) of ERISA with respect to a Plan; or (j) the occurrence of a nonexempt prohibited transaction (within the meaning of Section 4975 of the IRC or Section 406 of ERISA) with respect to a Plan which could reasonably be expected to result in a material liability to Borrower or its Subsidiaries.

"**EU Laws**" means all applicable statutes, rules and regulations implemented administered or enforced by the European Commission (solely with respect to Health Care Laws), the European Medicines Agency ("**EMA**") or the competent authorities of the EU Member States including, but not limited to, the EU Community Code on medicinal products (Directive 2001/83/EC), the EMA Regulation (Regulation (EC) No 726/2004), the Manufacturing Directive (Commission Directive 2003/94/EC), the Clinical Trials Regulation (Regulation (EU) No 536/2014), and related implementing legislation of individual EU Member States and related guidance at EU level and national level in individual EU Member States.

"**Event of Default**" is defined in Section 7.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Exchange Act Documents**" means any and all documents filed by Borrower with the SEC pursuant to the Exchange Act.

"**Excluded Accounts**" is defined in Section 5.5.

"**Excluded Equity Interests**" means, collectively: (i) any Equity Interests in any Subsidiary with respect to which the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, such Equity Interests, to secure the Obligations (and any guaranty thereof) are validly prohibited by Requirements of Law; (ii) any Equity Interests in any Subsidiary with respect to which the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, such Equity Interests, to secure the Obligations (and any guaranty thereof) require the consent, approval or waiver of any Governmental Authority or other third party and such consent, approval or waiver has not been obtained by Borrower following Borrower's commercially reasonable efforts to obtain the same; (iii) any Equity Interests in any Subsidiary that is a non-Wholly-Owned Subsidiary that the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, such Equity Interests, to secure the Obligations (and any guaranty thereof) are validly prohibited by, or would give any third party (other than Borrower or an Affiliate of Borrower) the right to terminate its obligations under, the Operating Documents or the joint venture agreement or shareholder agreement

with respect to, or any other contract with such third party relating to such non-Wholly-Owned Subsidiary, including any contract evidencing Indebtedness of such non-Wholly-Owned Subsidiary (other than customary non-assignment provisions which are ineffective under Article 9 of the Code or other Requirements of Law), but only, in each case, to the extent, and for so long as such Operating Document, joint venture agreement, shareholder agreement or other contract is in effect; (iv) all or a portion of the Equity Interests in a Foreign Subsidiary the pledge of which would, as a result of a change in Requirements of Law following the date hereof, reasonably be expected to result in an income inclusion for Borrower under Section 956 of the IRC (or a successor or similar provision) or Treasury Regulations promulgated thereunder that causes a material adverse tax consequence to Borrower and its Subsidiaries, taken as a whole; (v) until the termination or expiration of the below described prohibition or termination of, or payment in full of the "Secured Obligations" under the JPR Indenture, the equity interests in JPR Royalty Sub to the extent that Borrower is prohibited from pledging such interests pursuant to the terms of the Pledge and Security Agreement (as defined in the JPR Indenture), (vi) any Equity Interests in any other Subsidiary with respect to which, Borrower and the Collateral Agent reasonably determine by mutual agreement that the cost of granting the Collateral Agent, for the benefit of Lenders and the other Secured Parties, a security interest in and Lien upon, and pledging to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, such Equity Interests, to secure the Obligations (and any guaranty thereof) are excessive, relative to the value to be afforded to the Secured Parties thereby; and (vii) any other Equity Interests expressly included in the definition of "Excluded Property."

"**Excluded Property**" has the meaning set forth for such term in the Security Agreement.

"**Excluded Subsidiaries**" means, collectively: (i) any Subsidiary with respect to which the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, such Subsidiary's properties and assets subject or purported to be subject from time to time to a Lien under any Collateral Document and the Equity Interests in such Subsidiary to secure the Obligations (and any guaranty thereof) are validly prohibited by Requirements of Law (for the avoidance of doubt, not including the Operating Documents of such Subsidiary, except to the extent covered in sub-clause (ii) or (iii) below); (ii) any Subsidiary with respect to which the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, such Subsidiary's properties and assets subject or purported to be subject from time to time to a Lien under any Collateral Document and the Equity Interests in such Subsidiary to secure the Obligations (and any guaranty thereof) require the consent, approval or waiver of any Governmental Authority or other third party (other than Borrower or an Affiliate of Borrower) and any such consent, approval or waiver has not been obtained, directly or indirectly, by Borrower following Borrower's direct and indirect commercially reasonable efforts to obtain the same; (iii) any Subsidiary that is a non-Wholly-Owned Subsidiary, with respect to which, the grant to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of a security interest in and Lien upon, and the pledge to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, of, the properties and assets of such non-Wholly-Owned Subsidiary, to secure the Obligations (and any guaranty thereof) are validly prohibited by, or would give any third party (other than Borrower or an Affiliate of Borrower) the right to terminate its obligations under, such non-Wholly-Owned Subsidiary's Operating Documents or the joint venture agreement or shareholder agreement with respect thereto or any other contract with such third party relating to such non-Wholly-Owned Subsidiary, including any contract evidencing Indebtedness of such non-Wholly-Owned Subsidiary (other than customary non-assignment provisions which are ineffective under Article 9 of the Code or other Requirements of Law), but only, in each case, to the extent, and for so long as such Operating Document, joint venture agreement, shareholder agreement or other contract is in effect; (iv) any Subsidiary that owns properties and assets with an aggregate fair market value (as reasonably determined in good faith by a Responsible Officer of Borrower) of less than $**[***]**; (v) (A) any Foreign Subsidiary existing as of the Effective Date other than BioCryst Ireland Limited and (B) JPR Royalty Sub, unless, in either the case of sub-clause (A) above or in the case of sub-clause (b) above from and after discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, as applicable, such Subsidiary at any time (w) owns, co-owns or otherwise maintains any material Company IP with respect to the Product, (x) licenses any Company IP with respect to the Product from any third party, (y) enters into any Material Contract with respect to the Product in the Territory or otherwise becomes a party thereto or bound thereby or (z) otherwise engages in any business operations material to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory (in which case the parties hereto agree that any such Subsidiary shall constitute a Credit Party for all purposes under the Loan Documents as of the date of such ownership, co-ownership, maintenance, license, entry or becoming so bound, or engagement); and (vi) any other Subsidiary with respect to which, Borrower and the Collateral Agent reasonably determine by mutual agreement that the cost of granting the Collateral Agent, for the benefit of Lenders and the other Secured Parties, a security interest in and Lien upon, and pledging to the Collateral Agent, for the benefit of Lenders and the other Secured Parties, such Subsidiary's properties and assets subject or purported to be subject from time to time to a Lien under any Collateral Document and the Equity Interests of such Subsidiary to secure the Obligations (and any guaranty thereof) are excessive relative to the value to be afforded to the Secured Parties thereby. Notwithstanding the foregoing or any other provision of this Agreement, (1) no Subsidiary existing as of the Effective Date or organized,

formed or acquired (including by Acquisition), directly or indirectly, by any Credit Party from and after the Effective Date, that at any time (A) owns, co-owns or otherwise maintains any material Company IP, (B) licenses any Company IP from any third party, (C) enters into any Material Contract or otherwise becomes a party thereto or bound thereby or (D) otherwise engages in any business operations material to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory shall be (or shall be deemed to be) an Excluded Subsidiary for any purpose under the Loan Documents without the prior written consent of the Collateral Agent or the Required Lenders, and (2) no Foreign Subsidiary existing as of the Effective Date other than BioCryst Ireland Limited (including, for example, BioCryst Canada) shall continue to be (or to be deemed as) an Excluded Subsidiary hereunder at such time after the Tranche A Closing Date that such entity owns properties and assets with an aggregate fair market greater than $**[***]** (as reasonably determined in good faith by a Responsible Officer of Borrower); and, additionally, in each case of sub-clauses (1) and (2) above, Borrower shall cause such entity, within the time periods required by Section 5.12, 5.13 or 5.14, as and to the extent applicable, to become a Guarantor in accordance therewith.

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to a Lender or required to be withheld or deducted from a payment to Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender with respect to any Obligation pursuant to a law in effect on the date on which (i) Lender acquires such interest in any Obligation or (ii) Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.6, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to Lender immediately before it changed its lending office, (c) Taxes attributable to Lender's failure to comply with Section 2.6(d), and (d) any withholding Taxes imposed under FATCA.

"**Existing Credit Agreement**" means, collectively, that certain existing Credit Agreement dated as of December 7, 2020, as amended by that certain (i) Amendment Number One to Credit Agreement dated as of November 19, 2021, and (ii) Amendment Number Two to Credit Agreement dated as of August 3, 2022, among Borrower, the guarantors party thereto, the lenders party thereto and Athyrium, as the administrative agent (together with each other Loan Documents (as such term is defined in the Existing Credit Agreement).

"**Export and Import Laws**" means any applicable law, regulation, order or directive that applies to the import, export, re-export, transfer, disclosure or provision of goods, software, technology or technical assistance including, without limitation, restrictions or controls administered pursuant to the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774, administered by the U.S. Department of Commerce, Bureau of Industry and Security; U.S. Customs regulations; and similar import and export laws, regulations, orders and directives of other jurisdictions to the extent applicable.

"**Facility**" means, with respect to any Credit Party, any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by such Credit Party or any of its Subsidiaries or any of their respective predecessors or Affiliates, in each case in any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory.

"**FATCA**" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (including, for the avoidance of doubt, any agreements between the governments of the United States and the jurisdiction in which the applicable Lender is resident implementing such provisions), or any amended or successor version that is substantively comparable and not materially more onerous to comply with, and any current or future regulations promulgated thereunder or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the IRC, any intergovernmental agreement entered into in connection with the implementation of the foregoing sections of the IRC and any fiscal or regulatory legislation, regulations, rules or practices adopted pursuant to, or official interpretations implementing such Sections of the IRC or intergovernmental agreements.

"**FCPA**" is defined in Section 4.18(a).

"**FDA**" means the United States Food and Drug Administration (and any United States state and foreign equivalents, including the United Kingdom Medicines and Healthcare Products Regulatory Agency, European Medicines Agency, the Competent Authorities of the Member States of the European Economic Area and Human Genetic Resources Administration of China).

"**FDA Laws**" means all applicable statutes (including the FDCA and PHSA), rules and regulations implemented, administered, or enforced by the FDA (and any United States state and foreign equivalents), and as interpreted through applicable guidance documents by the FDA (and foreign equivalents).

"**FDCA**" is defined in Section 4.19(b).

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System.

"**Financially Disqualified Assignee**" means any third Person (other than a natural Person) that (x) has assets under management of less than $1,000,000,000, (y) has a rating below BBB from S&P Global Ratings and a rating below Baa2 from Moody's Investors Services, Inc. at the date it becomes a Lender, and (z) is not capable of fulfilling the assigning Lender's unfunded Tranche B Commitment, Tranche C Commitment or Tranche D Commitment, as applicable, in the reasonable judgment in good faith of a Responsible Officer of Borrower.

"**Floor**" means a rate of interest equal to 1.75% *per annum*.

"**Foreign Lender**" means a Lender that is not a "United States person" as defined in Section 7701(a)(30) of the IRC.

"**Foreign Subsidiary**" means, with respect to any Credit Party, any Subsidiary of such Credit Party that is not a Domestic Subsidiary.

"**GAAP**" means with respect to Borrower and its Subsidiaries, generally accepted accounting principles in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination, consistently applied.

"**GDPR**" means, collectively, (i) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (the "**EU GDPR**") and (ii) the EU GDPR as it forms part of the laws of the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

"**Good Clinical Practices**" means the standards set forth in 21 C.F.R. Parts 50, 54, 56, 312, 314 and 316 (and any foreign equivalents), and as interpreted through applicable guidance documents by FDA (and foreign equivalents), and FDA-adopted International Council for Harmonisation Good Clinical Practice guidance.

"**Good Laboratory Practices**" means the standards set forth in 21 C.F.R. Part 58 (and any foreign equivalent), and as interpreted through applicable guidance documents by FDA (and foreign equivalents).

"**Good Manufacturing Practices**" means the good manufacturing practice and quality system standards set forth in 21 C.F.R. Parts 4, 210, 211, 600, 610, and 820 (and any foreign equivalents), and as interpreted through applicable guidance documents by FDA (and foreign equivalents).

"**Governmental Approval**" means any consent, authorization, approval, licensure, clearance, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, any agency (including Regulatory Agencies, data protection authorities, and agencies acting as supervisory governmental organizations on issues of privacy protection), government department, authority (including state attorneys general), instrumentality, regulatory body, ministry, commission, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Governmental Payor Programs**" means all governmental third party payor programs in which any Credit Party or its Subsidiaries participates, including Medicare, Medicaid, TRICARE or any other U.S. federal or state health care programs or foreign equivalents in the Territory.

"**Guarantor**" means, at any time, any Person that is, pursuant to the terms of any Loan Document, a guarantor of any of the Obligations at that time, including, for the avoidance of doubt, any Discretionary Guarantor.

"**Hazardous Materials**" means any chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority or which may or could pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

"**Hazardous Materials Activity**" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"**Health Care Laws**" means, collectively: (a) applicable federal, state or local laws, rules, regulations, codes, orders, ordinances, statutes and requirements issued under or in connection with Medicare, Medicaid or any other Governmental Payor Programs; (b) applicable federal and state laws and regulations governing privacy, security, or notification of breaches regarding health information, including HIPAA and Section 5 of the FTC Act; (c) applicable federal, state and local fraud and abuse laws of any Governmental Authority, including the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7(b)), the civil False Claims Act (31 U.S.C. § 3729 et seq.), Sections 1320a-7 and 1320a-7a of Title 42 of the United States Code and the regulations promulgated pursuant to such statutes, and also including any other U.S. or foreign laws or regulations that are applicable to health care fraud, abuse, corruption, waste, bribery, inducements, false statements, or false claims; (d) the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173) and the regulations promulgated thereunder; (e) the Physician Payment Sunshine Act (42 U.S.C. § 1320a-7h) and any other federal, state or local laws or regulations (or foreign equivalents thereof) governing the disclosure of payments or providing other items of value or remuneration or drug product samples to health care professionals; (f) the required licensure or permitting of personnel who are engaged in marketing, sales or medical activities under federal, state, or local laws (or foreign equivalents); (g) the disclosure of drug pricing information and other company information to the public, customers, prescribers or to state and local agencies under federal, state, or local laws (or foreign equivalents); (h) laws and regulations requiring the adoption of compliance codes or policies; (i) any applicable reporting and disclosure requirements, including any arising under Section 603 of the Veteran's Health Care Act (Quarterly and Annual Non-Federal Average Manufacturer Price and Federal Ceiling Price), Best Price, Federal Supply Schedule Contract Prices and Tricare Retail Pharmacy Refunds, and Medicare Part D; (j) applicable federal, state or local laws, rules, regulations, ordinances, statutes and requirements relating to (x) the regulation of managed care, third party payors and Persons bearing the financial risk for the provision or arrangement of health care services, (y) billings to insurance companies, health maintenance organizations and other Managed Care Plans or otherwise relating to insurance fraud and (z) any insurance, health maintenance organization or managed care Requirements of Law; (k) regulations for the protection of human research subjects (including 45 C.F.R. part 46); and (l) any other applicable Requirements of Law, including any applicable EU, UK or other foreign equivalents, relating to any aspect of the research, development, testing, approval, exclusivity, licensure, clearance, authorization, designation, post-authorization (or post-licensure, post-clearance, or post-approval, as applicable) monitoring or commitments, reporting, manufacture, production, packaging, labeling, use, commercialization, marketing, promotion, advertising, importing, exporting, storage, transport, offer for sale, distribution or sale of or payment for Product.

"**Hedge Termination Value**" means, with respect to any Hedging Agreement, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Agreement (if any), (a) for any date occurring on or after the date such Hedging Agreement has been closed out and termination value determined in accordance therewith, such termination value, and (b) for any date occurring prior to the date referenced in cause (a) above, the amount determine as the mark-to-market value for such Hedging Agreement, as determined based upon one or more mid-market or other readily available quotation provided by any recognized dealer in such Hedging Agreement (which may include a Lender or any Affiliate of a Lender).

"**Hedging Agreement**" means any interest rate, currency, commodity or equity swap, collar, cap, floor or forward rate agreement, or other agreement or arrangement designed to protect a Person against fluctuations in interest rates, currency exchange rates or commodity or equity prices or values (including any option with respect to any of the foregoing and any combination of the foregoing agreements or arrangements), and any confirmation execution in connection with any such agreement or arrangement. Notwithstanding anything to the contrary in the foregoing, any Permitted Equity Derivative or Permitted Convertible Indebtedness shall not constitute a Hedging Agreement.

"**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented by the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, any and all rules or regulations promulgated from time to time thereunder, and any U.S. state or federal laws with regard

to the security, privacy, or notification of breaches of the confidentiality of health information which are not preempted pursuant to 45 C.F.R. Part 160, Subpart B.

"**IFRS**" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"**Indebtedness**" means, with respect to any Person, without duplication: (a) all indebtedness for advanced or borrowed money of, or credit extended to, such Person; (b) all obligations issued, undertaken or assumed by such Person as the deferred purchase price of assets, properties, services or rights, including (A) any obligation or liability to pay deferred purchase price or other similar deferred consideration for such assets, properties, services or rights where such deferred purchase price or consideration becomes due and payable solely upon the passage of time and (B) any obligation of the type described in clause (b) of the definition of "Contingent Obligation" that becomes due and payable (or that becomes due and payable) solely with the passage of time (and not the occurrence of an event or the performance of an act) other than in each case of this clause (b), (i) accrued expenses and trade payables entered into in the ordinary course of business which are not more than one hundred and eighty (180) days past due or subject to a bona fide dispute, (ii) obligations to pay for services provided by employees and individual independent contractors in the ordinary course of business which are not more than one hundred and twenty (120) days past due or subject to a bona fide dispute, (iii) liabilities associated with customer prepayments and deposits, and (iv) prepaid or deferred revenue arising in the ordinary course of business); (c) the face amount of all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds, performance bonds and other similar instruments issued by such Person; (d) all obligations of such Person evidenced by notes, bonds, debentures or other debt securities or similar instruments (including debt securities convertible into Equity Interests, including Permitted Convertible Indebtedness), including obligations so evidenced incurred in connection with the acquisition of properties, assets or businesses; (e) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement or incurred as financing, in either case with respect to property acquired by such Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property); (f) all Capital Lease Obligations of such Person; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product by such Person; (h) Disqualified Equity Interests; (i) all indebtedness referred to in clauses (a) through (g) above of other Persons secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in assets or properties (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness of such other Persons; and (i) all Contingent Obligations of such Person described in clause (a) of the definition thereof supporting Indebtedness described in clauses (a) through (g) above of other Persons. For the avoidance of doubt, "Indebtedness" shall include Permitted Convertible Indebtedness, but shall not include any Permitted Equity Derivative.

"**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims, actions, judgments, suits, costs, reasonable and documented out-of-pocket fees, expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented fees and disbursements of one primary legal counsel for Indemnified Persons plus, as applicable, one local legal counsel in each relevant material jurisdiction and one intellectual property legal counsel, and in the case of an actual or perceived conflict of interest, one additional legal counsel for such affected Indemnified Persons), incurred by any Indemnified Person or asserted against any Indemnified Person by any Person (including Borrower or any other Credit Party) relating to or arising out of or in connection with, or as a result of, this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (including any Lender's agreement to make Credit Extensions or the use or intended use of the proceeds thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of any guaranty of the Obligations)), including (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Term Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by Borrower or any of its Subsidiaries, or any liability relating to any Environmental Law, any Release of Hazardous Materials or any Hazardous Materials Activity, (iv) any actual or prospective claim, suit, litigation, investigation, hearing or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by, commenced or threatened in writing by any Person (including Borrower or any of its affiliates), and regardless of whether any Indemnified Person is or is designated as a party or a potential party thereto, and (v) the enforcement of the indemnity hereunder, in each case whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations, on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnified Person, in any manner.

"**Indemnified Person**" is defined in Section 11.2(a).

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

"**Insolvency Proceeding**" means, with respect to any Person, any proceeding by or against such Person under the Bankruptcy Code, or any other domestic or foreign bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, examinership or other relief; provided, however, that, solely with respect to any Person incorporated, organized or formed in any jurisdiction other than the United States, "Insolvency Proceeding" shall not include any winding-up petition against such Credit Party which is frivolous or vexatious and is discharged or dismissed within thirty (30) days of the commencement thereof or any step or procedure in connection with any transaction otherwise permitted under this Agreement.

"**Intellectual Property**" means all:

(a) Copyrights, Trademarks, and Patents;

(b) trade secrets and trade secret rights, including any rights to unpatented inventions, know-how, show-how and operating manuals;

(c) (i) all computer programs, including source code and object code versions, (ii) all data, databases and compilations of data, whether machine readable or otherwise, and (iii) all documentation, training materials and configurations related to any of the foregoing (collectively, "**Software**");

(d) all right, title and interest arising under any contract or Requirements of Law in or relating to Internet Domain Names;

(e) design rights; and

(f) IP Ancillary Rights (including all IP Ancillary Rights related to any of the foregoing).

in case of clause (a) through (f), above, existing in the Territory.

"**Intercreditor Agent**" has the meaning set forth for such term in the Intercreditor Agreement.

"**Intercreditor Agreement**" means that certain New York law-governed intercreditor agreement, dated as of November 19, 2021, among the Collateral Agent (as successor to Athyrium), RPI and OMERS, as amended by the Amendment and Joinder to the Intercreditor Agreement.

"**Interest Date**" means the last day of each calendar quarter, commencing with the last day of the calendar quarter during which the Tranche A Closing Date occurs.

"**Interest Period**" means, (a) (i) with respect to the Tranche A Loan, the period commencing on (and including) the Tranche A Closing Date and ending on (and including) the first Interest Date following the Tranche A Closing Date, and (ii) with respect to the Tranche B Loan, the period commencing on (and including) the Tranche B Closing Date and ending on (and including) the first Interest Date following the Tranche B Closing Date, (iii) with respect to the Tranche C Loan, the period commencing on (and including) the Tranche C Closing Date and ending on (and including) the first Interest Date following the Tranche C Closing Date, and (iv) with respect to the Tranche D Loan, the period commencing on (and including) the Tranche D Closing Date and ending on (and including) the first Interest Date following the Tranche D Closing Date, and (b) thereafter, with respect to each Term Loan, each period beginning on (and including) the first day following the end of the preceding Interest Period and ending on the earlier of (and including) (x) the next Interest Date and (y) the Term Loan Maturity Date.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any contract or Requirements of Law in or relating to Internet domain names.

"**Inventory**" means all "inventory" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes all merchandise (including Product), materials (including raw materials), parts, components (including component materials and component raw materials), supplies, packing and shipping materials, work in process and finished products, technology (including software, systems, and solutions), and all elements needed to fulfill obligations related to Product under any Manufacturing Agreements including such

inventory as is temporarily out of a Credit Party's or Subsidiary's custody or possession or in transit (prior to title having transferred) and including any returned goods and any documents of title representing any of the above.

"**Investment**" means, with respect to any Person, (a) any beneficial ownership interest in another Person (including Equity Interests), (b) any Acquisition by such Person or (c) the making by such Person of any advance, loan, extension of credit or capital contribution in or to, another Person. The amount of an Investment shall be the amount actually invested (which, in the case of any Investment by a Credit Party or any of its Subsidiaries constituting the contribution of an asset or property, shall be based on the good faith estimate of the fair market value of such asset or property at the time such Investment is made as reasonably determined in good faith by a Responsible Officer of such Credit Party), less the amount of cash received or returned for such Investment, without adjustment for subsequent increases or decreases in the value of such Investment or write-ups, write-downs or write-offs with respect thereto; provided that in no event shall such amount be less than zero.

"**IP Agreements**" means, collectively, (a) those certain IP Security Agreement(s) entered into by and between Borrower and the Collateral Agent, dated as of the Tranche A Closing Date, and (b) any IP Security Agreement entered into by and between any relevant Credit Party and the Collateral Agent after the Tranche A Closing Date in accordance with the Loan Documents.

"**IP Ancillary Rights**" means, with respect to any Copyright, Trademark, Patent, Software, trade secrets or trade secret rights, including any rights to unpatented inventions, know-how, show-how and operating manuals, all income, royalties, proceeds and liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect thereto, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other intellectual property right ancillary to any Copyright, Trademark, Patent, Software, trade secrets or trade secret rights.

"**IP Security Agreement**" means "IP Security Agreement", as such term is defined in the Security Agreement.

"**IRC**" means the Internal Revenue Code of 1986, as amended, or any successor statute.

"**Irish Companies Act**" means the Companies Act 2014 of Ireland (as amended).

"**Irish Collateral Documents**" means:

(a) the Irish law debenture entered into by (i) BioPharma Credit, PLC (as collateral agent), and (ii) BioCryst Ireland Limited (as chargor); and

(b) the Irish law share charge entered into by (i) BioPharma Credit, PLC (as collateral agent), and (ii) BioCryst Pharmaceuticals, Inc. (as chargor) in relation to the shares in BioCryst Ireland Limited.

"**IRS**" means the United States Internal Revenue Service or any successor agency.

"**JPR Indenture**" means that certain Indenture, dated as of March 9, 2011, by and between JPR Royalty Sub and U.S. Bank, National Association, as in effect on the date hereof.

"**JPR Royalty Sub**" means JPR Royalty Sub LLC, a Delaware limited liability company. The parties hereto agree that, until discharge of the JPR Indenture pursuant to and in accordance with Section 11.1 thereof, JPR Royalty Sub shall be deemed not to be a "Subsidiary" for purposes of the provisions hereunder relating to Subsidiaries generally, except as otherwise expressly provided herein or for purposes of any provisions herein specific to JPR Royalty Sub.

"**Knowledge**" means, with respect to any Person, the actual knowledge, after reasonable investigation, of the Responsible Officers of such Person; provided, that, with respect to Borrower, reasonable investigation means that Borrower has also affirmatively sought out information from other Credit Parties or their Subsidiaries on the relevant subject matter if and to the extent relevant.

"**Lender**" means each Person signatory hereto as a "Lender" and its successors and assigns.

"**Lender Affiliate Transfer**" is defined in Section 11.1(b).

"**Lender Expenses**" means, collectively:

(a) all reasonable and documented out-of-pocket fees and expenses of the Collateral Agent, the Intercreditor Agent and, as applicable, each Lender (and their respective successors and assigns) and their respective Related Parties (including the reasonable and documented out-of-pocket fees, expenses and disbursements of legal counsel (it being agreed that such legal counsel fees, expenses and disbursements shall be limited to one primary legal counsel, one local legal counsel in each applicable jurisdiction and one intellectual property legal counsel (as and to the extent applicable) for the Collateral Agent, the Intercreditor Agent, Lenders and Related Parties, taken as a whole and in the case of an actual or perceived conflict of interest, one additional legal counsel for such affected Indemnified Persons), manufacturing consultants or intellectual property experts (it being agreed that such consultant or expert fees, expenses and disbursements shall be limited to one such consultant and one such expert for the Collateral Agent, the Intercreditor Agent, Lenders and such Related Parties, taken as a whole) therefor, (i) incurred in connection with developing, preparing, negotiating, syndicating, executing and delivering, and interpreting, investigating and administering, the Loan Documents (or any term or provision thereof), any commitment, proposal letter, letter of intent or term sheet therefor or any other document prepared in connection therewith, (ii) incurred in connection with the consummation and administration of any transaction contemplated therein, exclusive of the legal fees and expenses of outside counsel to Lenders and the Collateral Agent in connection with the preparation of the initial draft of this Agreement (which shall be borne by Lenders), (iii) incurred in connection with the performance of any obligation or agreement contemplated therein, (iv) incurred in connection with any modification or amendment of any term or provision of, or any supplement to, or the termination (in whole or in part) of, any Loan Document, (v)) incurred in connection with internal audit reviews and Collateral audits, or (vi) otherwise incurred with respect to the Credit Parties in connection with the Loan Documents, including any filing or recording fees and expenses; and

(b) all reasonable and documented out-of-pocket costs and expenses incurred by the Collateral Agent, the Intercreditor Agent and each Lender (and their respective successors and assigns) and their respective Related Parties (including the reasonable and documented out-of-pocket fees, expenses and disbursements of one primary legal counsel, one local legal counsel in each applicable jurisdiction and one intellectual property legal counsel (as and to the extent applicable) for the Collateral Agent, the Intercreditor Agent, Lenders and Related Parties, taken as a whole and in the case of an actual or perceived conflict of interest, one additional legal counsel for such affected Indemnified Persons) in connection with (i) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out," (ii) the enforcement or protection or preservation of any right or remedy under any Loan Document, any Obligation, with respect to any of the Collateral or any other related right or remedy, or (iii) the commencement, defense, conduct of, intervention in, or the taking of any other action with respect to, any proceeding (including any Insolvency Proceeding) related to any Credit Party or any Subsidiary of any Credit Party in respect of any Loan Document or Obligation, or otherwise in connection with any Loan Document or Obligation (or the response to and preparation for any subpoena or request for document production relating thereto).

"**Lender Third Party Transfer**" is defined in Section 11.1(b).

"**Lender Transfer**" is defined in Section 11.1(b).

"**Lien**" means a claim for security purposes, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind or assignment for security purposes, whether voluntarily incurred or arising by operation of law or otherwise against any property or assets.

"**Loan Documents**" means, collectively, this Agreement, the Disclosure Letter, the Term Loan Notes, the Security Agreement, the Irish Collateral Documents, the Intercreditor Agreement, the IP Agreements, the Perfection Certificate, any Control Agreement, any Collateral Access Agreement, any other Collateral Document, any guaranties executed by a Guarantor in favor of the Collateral Agent for the benefit of Lenders and the other Secured Parties in connection with this Agreement, and any other present or future agreement between or among a Credit Party, the Collateral Agent and any Lender in connection with this Agreement, including in each case, for the avoidance of doubt, any annexes, exhibits or schedules thereto, and any related ancillary documents, agreements, waivers or consents.

"**Makewhole Amount**" the Tranche A Makewhole Amount, the Tranche B Makewhole Amount, the Tranche C Makewhole Amount or the Tranche D Makewhole Amount (as applicable) or any combination thereof, as the context dictates.

"**Managed Care Plans**" means all health maintenance organizations, preferred provider organizations, individual practice associations, competitive medical plans and similar arrangements.

"**Manufacturing Agreement**" means any contract or agreement entered into on or prior to the Closing Date by any Credit Party or any of its Subsidiaries with third parties for (i) the clinical or commercial manufacture or in-bound supply in the Territory of Product for any indication, or (ii) for the commercial manufacture or in-bound supply of any active pharmaceutical ingredient or any other raw materials or other component materials incorporated therein that was included in the NDA for Product (with the Manufacturing Agreements in effect as of the Closing Date being set forth in Schedule 12.1 of the Disclosure Letter), and (b) any future contract or agreement entered into after the Closing Date by any Credit Party or any of its Subsidiaries with third parties for (i) the clinical or commercial manufacture or in-bound supply in the Territory of Product for any indication or (ii) for the commercial manufacture or in-bound supply of any active pharmaceutical ingredient or any other raw materials or other component materials incorporated therein that was included in the NDA for Product.

"**Margin Stock**" means "margin stock" within the meaning of Regulations U and X of the Federal Reserve Board as now and from time to time hereafter in effect.

"**Material Adverse Change**" means any material adverse change in or material adverse effect on: (a) the business, operations, condition (financial or otherwise), properties or assets (including all or any portion of the Collateral), liabilities (actual or contingent), operations or performance of the Credit Parties, taken as a whole, since December 31, 2022; (b) without limiting the generality of clause (a) above, any (i) the rights or remedies of the Credit Parties, taken as a whole, in or related to the research, development, exclusivity, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory or (ii) the period of regulatory exclusivity granted by the FDA (or foreign equivalent) for Product in the Territory; (c) the ability of the Credit Parties, taken as a whole, to fulfill the payment or performance obligations under the Loan Agreement or any other Loan Document; (d) the binding nature or validity of, or the ability of the Collateral Agent, the Intercreditor Agent or any Lender to enforce, any of the Loan Documents or any of its rights or remedies thereunder; or (e) the validity, perfection (except to the extent expressly permitted under the Loan Documents) or priority of Liens in favor of the Collateral Agent, for the benefit of Lenders and the other Secured Parties, or the Intercreditor Agent, for the benefit of RPI and OMERS, except, in the case of each of clauses (d) and (e) above, to the extent directly resulting from any act or omission to act on the part of the Collateral Agent. Notwithstanding the foregoing, no clinical or regulatory failure with respect to future Product approval shall constitute or be deemed to constitute a Material Adverse Change.

"**Material Contract**" means any contract or other arrangement to which any Credit Party or any of its Subsidiaries is a party (other than the Loan Documents) or by which any of its assets or properties are bound, in each case, relating to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory, for which the breach of, default or nonperformance under, cancellation or termination of or the failure to renew could reasonably be expected to result in a Material Adverse Change under clause (a), (b), (c), (d) or (e) of the definition thereof. For the avoidance of doubt, (x) each Manufacturing Agreement and each Company IP Agreement is deemed to be a Material Contract for all purposes hereunder, (y) the Royalty Revenue Contract and each other Royalty Revenue Document is deemed to be a Material Contract for all purposes hereunder, and (z) any Permitted Additional Royalty Financing Documents, if any, is deemed to be a Material Contract for all purposes hereunder. The parties hereto agree that the following agreements are not Material Contracts: any (a) customer contracts, (b) any purchase orders or statements of work entered into from time to time in the ordinary course of business pursuant to Manufacturing Agreements, except in each case any such order or statement that is in the form of an amendment to or otherwise amends any material terms of any Manufacturing Agreement, (c) agreements or other contractual arrangements in connection with capital expenditures in the ordinary course of business, (d) agreements or other contractual arrangements entered into in the ordinary course of business in connection with the purchase of materials or the sale of third party products for further distribution, and (e) distribution agreements entered into in the ordinary course of business with third parties for the sale of Product outside of the Territory.

"**Medicaid**" means the health care assistance program established by Title XIX of the SSA (42 U.S.C. 1396 et seq.).

"**Medicare**" means the health insurance program for the aged and disabled established by Title XVIII of the SSA (42 U.S.C. 1395 et seq.).

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on real estate or any interest in real estate.

"**Multiemployer Plan**" means a multiemployer plan within the meaning of Section 4001(a)(3) or Section 3(37) of ERISA (a) to which Borrower or its Subsidiaries or their respective ERISA Affiliates is then making or accruing an obligation to make contributions; (b) to which Borrower or its Subsidiaries or their respective ERISA

Affiliates has within the preceding five (5) plan years made contributions; or (c) with respect to which Borrower or its Subsidiaries could incur material liability.

"**NDA**" means a new drug application, submitted to the FDA pursuant to 21 U.S.C. § 355 seeking authorization to market a new drug in the United States or any foreign equivalent.

"**Obligations**" means, collectively, the Credit Parties' obligations to pay when due any and all debts, principal, interest, Lender Expenses, the Additional Consideration, the Makewhole Amount (if applicable), the Prepayment Premium (if applicable) and any other fees, expenses, indemnities and amounts any Credit Party owes any Lender or the Collateral Agent now or later, under this Agreement or any other Loan Document, including interest accruing after Insolvency Proceedings begin (whether or not allowed), and to perform Borrower's duties under the Loan Documents.

"**OFAC**" is defined in Section 4.18(c).

"**OMERS**" means OCM IP Healthcare Holdings Limited.

"**Operating Documents**" means, collectively with respect to any Person, such Person's formation and constitutional documents and, in each case to the extent applicable, (a) if such Person is a corporation, its bylaws (or similar organizational regulations), (b) if such Person is an exempted company or a company limited by shares, its memorandum and articles of association (or similar organizational regulations), (c) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (d) if such Person is a partnership, its partnership agreement (or similar agreement), in each case including all amendments, restatements, supplements and modifications thereto.

"**ordinary course of business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, undertaken by such Person in good faith and not for purposes of evading any covenant, prepayment obligation or restriction in any Loan Document.

"**ORLADEYO**®" is defined in the definition of Product.

"**Orphan Drug**" means a drug or biologic that meets the definition for "orphan drug" provided in 21 C.F.R. § 316.3(b)(10) that has been granted an orphan drug designation by the Secretary of U.S. Department of Health and Human Services under 21 U.S.C. § 360bb.

"**Other Connection Taxes**" means, with respect to any Lender, Taxes imposed as a result of a present or former connection between such Lender and the jurisdiction imposing such Tax (other than connections arising solely from such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Term Loan or Loan Document).

"**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, excise, filing, value added Taxes, mortgage or property Taxes, charges or similar levies or similar Taxes that arise from any payment made hereunder, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to a Lender Transfer.

"**Participant Register**" is defined in Section 11.1(d).

"**Patents**" means all patents and patent applications (including any improvements, continuations, continuations-in-part, divisions, provisionals or any substitute applications), any patent issued with respect to any of the foregoing patent applications, any reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent, and all foreign and international counterparts of any of the foregoing. For the avoidance of doubt, patents and patent applications under this definition include individual patent claims and include all patents and patent applications filed with the U.S. Patent and Trademark Office or which could be nationalized in the United States.

"**Patriot Act**" is defined in Section 3.1(h).

"**PCI Cap**" means, as of any date of determination, an aggregate principal amount not to exceed $**[***]**.

"**Perfection Certificate**" is defined in Section 4.6.

"**Periodic Term SOFR Determination Day**" has the meaning specified in the definition of "Term SOFR".

"**Permitted Acquisition**" means any Acquisition, so long as either Borrower has received prior written consent therefor from the Required Lenders or:

(a) no Default or Event of Default shall have occurred and be continuing as of, or could reasonably be expected to result from, the consummation of such Acquisition;

(b) the properties or assets being acquired or licensed, or the Person whose Equity Interests are being acquired, are useful in or engaged in, as applicable, (i) the same, similar or related line of business as that then-conducted by Borrower and its Subsidiaries, or (ii) a line of business that is related or ancillary to or in furtherance of a line of business as that then-conducted by Borrower and its Subsidiaries;

(c) in the case of any Asset Acquisition, any and all assets are being acquired or licensed in such Acquisition by a Credit Party (or a Person that, concurrently with such Acquisition (or within the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable thereto) becomes a Credit Party) and such Credit Party (or Person) satisfies all requirements contained in this Agreement (including Section 5.12) and each other Loan Document or reasonably requested by the Collateral Agent with respect to any and all such assets which constitute Collateral (including the execution and delivery of joinders, security agreements, financing statements and any other documentation), in order to subject such newly acquired or licensed assets to the Collateral Agent's first priority security interest in and Lien on (subject to Permitted Liens) the Collateral, concurrently with such Acquisition (or within the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable thereto);

(d) in the case of any Stock Acquisition, any and all Equity Interests are being acquired in such Acquisition by a Credit Party (or a Person that, concurrently with such Acquisition (or within the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable thereto) becomes a Credit Party) and such Credit Party (or Person) satisfies all requirements contained in this Agreement (including Section 5.12) and each other Loan Document or reasonably requested by the Collateral Agent with respect to such Equity Interests which constitute Collateral (including the delivery of certificate(s) together with stock powers or assignments (properly endorsed for transfer to the Collateral Agent or duly executed in blank) and any other documentation), in order to subject such Equity Interests to the Collateral Agent's first priority security interest in and Lien on (subject to Permitted Liens) the Collateral, concurrently with such Acquisition (or within the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable thereto); and

(e) any Indebtedness or Liens assumed in connection with such Acquisition are otherwise permitted under Section 6.4 or 6.5, respectively.

"**Permitted Additional Royalty Financing**" means any direct or indirect royalty or similar financing (including any royalty sale or any synthetic royalty financing) for the sale of revenues or royalties relating to product other than Product entered into after the Tranche A Closing Date and includes the payment of royalties or similar payments based on a percentage of the net sales of such product other than Product, subject to the consent of the Collateral Agent in its sole discretion; provided, however, that if such royalty or similar financing (x) is structured as a "true sale" of revenues or royalties relating to product other than Product (and not as a lending transaction or the grant of a security interest in such revenues or royalties (other than a customary back-up security interest)), (y) does not obligate Borrower or any of its Subsidiaries (including JPR Royalty Sub) to make any payment relating to a change of control, any late or overdue payments in excess of shortfalls discovered through an audit, any fees or interest payments with respect to any such shortfalls, or any fees relating to the termination of such royalty or similar financing, and (z) does not require Borrower or any of its Subsidiaries (including JPR Royalty Sub) to make any advance payment before such payment is due and payable, any prepayment of any royalty payments or similar payments owed under the terms of such royalty or similar financing or any minimum amount payment in the form of a true up, then (i) such royalty or similar financing shall be subject to the consent of the Collateral Agent in its reasonable discretion and (ii) any related intercreditor agreement shall be the Intercreditor Agreement (as amended or amended and restated to reflect such royalty or similar financing), or an intercreditor agreement substantially similar in form and substance to the Intercreditor Agreement, or another intercreditor agreement reasonably acceptable to the Collateral Agent.

"**Permitted Additional Royalty Financing Documents**" means the documents governing or evidencing any Permitted Additional Royalty Financing.

"**Permitted Convertible Indebtedness**" means Indebtedness of Borrower or any Subsidiary of Borrower that is a Credit Party having a feature which entitles the holder thereof in certain circumstances to convert or exchange all or a portion of such Indebtedness into Equity Interests in Borrower or such Subsidiary (or other securities or property following a merger event or other change of the common stock of Borrower or such Subsidiary), cash or any combination of cash and such Equity Interests (or such other securities or property) based on the market price of such Equity Interests (or such other securities or property); provided, however, that (a) such Indebtedness shall be unsecured, (b) such Indebtedness shall not be guaranteed by any Subsidiary of Borrower, (c) such Indebtedness shall bear interest at a rate *per annum* not to exceed **[***]** percent (**[***]**%), (d) such Indebtedness shall not include covenants and defaults (other than covenants and defaults customary for convertible indebtedness but not customary for loans, as determined by Borrower in its good faith judgment) that are, taken as a whole, more restrictive on the Credit Parties than the provisions of this Agreement (as determined by Borrower in its good faith judgment), (e) immediately prior to and after giving effect to the incurrence of such Indebtedness, no Default or Event of Default shall have occurred and be continuing or could reasonably be expected to occur as a result therefrom (after giving effect to this Agreement), (f) such Indebtedness shall not (i) mature or be mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, (ii) be redeemable at the option of the holder thereof, in whole or in part or (iii) provide for the scheduled payment of dividends or distributions (other than scheduled cash interest payments) in cash, in each case of the foregoing sub-clauses (i), (ii) and (iii), earlier than six (6) months after the Term Loan Maturity Date (it being understood, for the avoidance of doubt, that (w) a redemption right of Borrower or such Subsidiary in respect of such Indebtedness, (x) conversion rights of holders in respect of such Indebtedness, (y) acceleration rights of holders of such Indebtedness upon the occurrence of an event of default specified in the agreement governing such Indebtedness and (z) the obligation to pay customary amounts to holders of such Indebtedness in connection with a "change of control", "fundamental change" or "make-whole fundamental change" or similar event, in each case, shall not be considered in connection with the determination of scheduled maturity date for purposes of this clause (f)); (g) immediately after giving effect to the incurrence of any such Indebtedness, the amount of all Permitted Convertible Indebtedness permitted hereunder and then outstanding *less* (y) the amount of proceeds of such Indebtedness that (1) will be used solely to repay or retire existing Permitted Convertible Indebtedness and (2) is placed into an escrow account solely dedicated to such use, shall not exceed the PCI Cap; and (h) Borrower shall have delivered to the Collateral Agent a certificate of a Responsible Officer of Borrower certifying as to the foregoing clauses (a) through (g) with respect to any such Indebtedness.

"**Permitted Distributions**" means, in each case subject to the last sentence of Section 6.8 AS applicable:

(a) dividends, distributions or other payments by any Wholly-Owned Subsidiary of Borrower on its Equity Interests to, or the redemption, retirement or purchase by any Wholly-Owned Subsidiary of Borrower of its Equity Interests from, Borrower or any other Wholly-Owned Subsidiary of Borrower;

(b) dividends, distributions or other payments by any non-Wholly-Owned Subsidiary on its Equity Interests to, or the redemption, retirement or purchase by any non-Wholly-Owned Subsidiary of its Equity Interests from, Borrower or any other Subsidiary or each other owner of such non-Wholly-Owned Subsidiary's Equity Interests based on their relative ownership interests of the relevant class of such Equity Interests;

(c) exchanges, redemptions or conversions by Borrower in whole or in part of any of its Equity Interests for or into another class of its Equity Interests or rights to acquire its Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests;

(d) any such payments arising from (i) a Permitted Acquisition or (ii) other Permitted Investment, in each case of this clause (d) by Borrower or any of its Subsidiaries;

(e) the payment of dividends by Borrower solely in non-cash pay and non-redeemable capital stock (including, for the avoidance of doubt, dividends and distributions payable solely in Equity Interests);

(f) cash payments in lieu of the issuance of fractional shares arising out of stock dividends, splits or combinations or in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests, including Permitted Convertible Indebtedness;

(g) in connection with any Acquisition or other Investment by Borrower or any of its Subsidiaries, (i) the receipt or acceptance of the return to Borrower or any of its Subsidiaries of Equity Interests of Borrower constituting a portion of the purchase price consideration in settlement of indemnification claims, or as a result of a purchase price adjustment (including earn-outs or similar obligations) and (ii) payments or distributions to equity holders pursuant to appraisal rights required under Requirements of Law;

(h) the distribution of rights pursuant to any shareholder rights plan or the redemption of such rights for nominal consideration in accordance with the terms of any shareholder rights plan;

(i) dividends, distributions or payments on its Equity Interests by any Subsidiary to any Credit Party;

(j) the conversion of convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof;

(k) dividends, distributions or payments on its Equity Interests by any Subsidiary that is not a Credit Party to any other Subsidiary that is not a Credit Party;

(k) purchases of Equity Interests of Borrower or its Subsidiaries in connection with the exercise of stock options by way of cashless exercise, or in connection with the satisfaction of withholding tax obligations;

(l) issuance to directors, officers, employees or contractors of Borrower or its Subsidiaries of awards or common stock of Borrower pursuant to awards, of restricted stock, restricted stock units, or other rights to acquire common stock of Borrower, in each case pursuant to plans or agreements approved by Borrower's Board of Directors (or committee thereof) or stockholders;

(m) the repurchase, retirement or other acquisition or retirement for value of Equity Interests of Borrower or any of its Subsidiaries held by any future, present or former employee, consultant, officer or director (or spouse, ex-spouse or estate of any of the foregoing or trust for the benefit of any of the foregoing or any lineal descendants thereof) of Borrower or any of its Subsidiaries pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any stock subscription or shareholder agreement or employment agreement; provided, however, that the aggregate payments made under this clause (m) do not exceed in any calendar year the sum of (i) $**[***]** *plus* (ii) the amount of any payments received in such calendar year under key-man life insurance policies; provided, further, that the value of Equity Interests of Borrower or any of its Subsidiaries that are withheld to satisfy tax withholding obligations upon the vesting of equity awards shall not reduce availability under this clause (m) pursuant to the immediately preceding proviso;

(n) dividends or distributions on its Equity Interests by Borrower or any of its Subsidiaries payable solely in additional shares of its common stock;

(o) solely in connection with Permitted Convertible Indebtedness and any Refinancing Convertible Debt relating thereto, as long as the applicable Credit Party or Subsidiary is a net receiver of cash in the case of any cash settlement, the Credit Parties or its Subsidiaries may enter into and make payments in connection with Permitted Equity Derivatives (and may settle whether in whole or in part and whether by physical settlement, cash settlement, net share settlement, or otherwise), terminate or unwind any such Permitted Equity Derivatives in connection with any refinancing, early conversion or maturity of such Permitted Convertible Indebtedness); and

(p) payments by any Credit Party or any Subsidiary of a Credit Party to any Credit Party or Subsidiary of a Credit Party pursuant to Tax sharing arrangements among the Credit Parties and their Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Credit Parties and their Subsidiaries.

"**Permitted Equity Derivative**" means any call or capped option (or substantively equivalent equity derivative transaction) or call spread transaction relating to the Equity Interests of Borrower or any other Credit Party purchased by Borrower or such Credit Party in connection with the issuance of Permitted Convertible Indebtedness and any Refinancing Convertible Debt relating thereto by Borrower or such other Credit Party, provided, that the purchase price for such call or capped option does not exceed the net cash proceeds received by Borrower or such other Credit Party from the issuance of such Permitted Convertible Indebtedness or Refinancing Convertible Debt.

"**Permitted Indebtedness**" means:

(a) Indebtedness of the Credit Parties to Secured Parties under this Agreement and the other Loan Documents;

(b) Indebtedness existing on the Effective Date and shown on Schedule 13.2 of the Disclosure Letter; provided, however, that no Indebtedness of any Credit Party or any Subsidiary under the Existing Credit Agreement shall be "Permitted Indebtedness" for purposes of Section 6.4 or any other purpose under this Agreement or the other Loan Documents;

(c) Permitted Convertible Indebtedness; provided that, the difference of (x) the amount of such Permitted Convertible Indebtedness permitted hereunder and then outstanding *less* (y) the amount of proceeds of such Indebtedness that (1) will be used solely to repay or retire existing Permitted Convertible Indebtedness and (2)

is placed into an escrow account solely dedicated to such use, shall not in the aggregate exceed at any time the PCI Cap;

(d) (i) Indebtedness incurred to finance the purchase, construction, repair, or improvement of fixed assets, (ii) Capital Lease Obligations and (iii) Capital Leases incurred (x) pursuant to automobile leases entered into in the ordinary course of business as part of employee compensation for employees based in Europe and (y) pursuant to laboratory equipment leases entered into in the ordinary course of business; provided, however, that all such Indebtedness under this clause (d) does not exceed $**[***]** in the aggregate at any time outstanding;

(e) Indebtedness in connection with trade credit, corporate credit cards, purchasing cards or bank card products, provided, that any such Indebtedness that is secured shall not exceed $**[***]** in the aggregate at any time outstanding;

(f) guarantees of Permitted Indebtedness;

(g) Indebtedness assumed in connection with any Permitted Acquisition, Permitted Transfer or Permitted Investment, so long as such Indebtedness was not incurred in connection with, or in anticipation of, such Permitted Acquisition, Permitted Transfer or Permitted Investment;

(h) Indebtedness of Borrower or any of its Subsidiaries with respect to letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments outstanding and to the extent secured, secured solely by cash or Cash Equivalents, in each case entered into in the ordinary course of business;

(i) Indebtedness owed: (i) by a Credit Party to another Credit Party; (ii) by a Subsidiary of Borrower that is not a Credit Party to another Subsidiary of Borrower that is not a Credit Party; (iii) by a Credit Party to a Subsidiary of Borrower that is not a Credit Party; or (iv) by a Subsidiary of Borrower that is not a Credit Party to a Credit Party, not to exceed $**[***]** in the aggregate at any time outstanding;

(j) Indebtedness consisting of Contingent Obligations described in clause (a) of the definition thereof: (i) of a Credit Party of Permitted Indebtedness of another Credit Party (or obligations that do not constitute Indebtedness hereunder and are not prohibited hereunder); (ii) of a Subsidiary of Borrower which is not a Credit Party of Permitted Indebtedness (or obligations that do not constitute Indebtedness hereunder and are not prohibited hereunder) of another Subsidiary of Borrower which is not a Credit Party; (iii) of a Subsidiary of Borrower which is not a Credit Party of Permitted Indebtedness (or obligations that do not constitute Indebtedness hereunder and are not prohibited hereunder) of a Credit Party; or (iv) of a Credit Party of Permitted Indebtedness (or obligations that do not constitute Indebtedness hereunder and are not prohibited hereunder) of a Subsidiary of Borrower which is not a Credit Party not to exceed, in the case of this clause (iv), $**[***]** in the aggregate at any time outstanding;

(k) To the extent constituting Indebtedness, Contingent Obligations of the type described in clause (b) of the definition thereof, not to exceed $**[***]** in the aggregate at any time outstanding, incurred in connection with any Permitted Acquisition, Permitted Transfer, Permitted Investment or any in-licensing or any collaboration, co-promotion or co-marketing arrangement;

(l) Indebtedness of any Person that becomes a (direct or indirect) Subsidiary of Borrower (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary of Borrower in a transaction permitted hereunder after the Effective Date, or Indebtedness of any Person that is assumed after the Effective Date by any Subsidiary in connection with a Permitted Acquisition by such Subsidiary after the Effective Date; provided, that, in each case no such Indebtedness was made in contemplation of or in connection with such Person becoming a (direct or indirect) Subsidiary of Borrower (or merging or consolidating with or into a Subsidiary of Borrower) or such Permitted Acquisition, or is (or becomes) recourse to any Credit Party;

(m) (i) Indebtedness with respect to workers' compensation claims, payment obligations in connection with health, disability or other types of social security benefits, unemployment or other insurance obligations, reclamation and statutory obligations or (ii) Indebtedness related to employee benefit plans, including annual employee bonuses, accrued wage increases and 401(k) plan matching obligations; in each case, incurred in the ordinary course of business;

(n) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations arising in the ordinary course of business;

(o) Indebtedness in respect of netting services, overdraft protection and other cash management services, in each case in the ordinary course of business;

(p) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business;

(q) Indebtedness consisting of guarantees resulting from endorsement of negotiable instruments for collection by any Credit Party in the ordinary course of business;

(r) unsecured Indebtedness incurred in connection with any items of Permitted Distributions in clause (m) of the definition of "Permitted Distributions";

(s) to the extent constituting Indebtedness, Permitted Equity Derivatives;

(t) other Indebtedness, either unsecured or secured solely by Liens constituting a Permitted Lien under clause (u) of the definition thereof, in an aggregate amount not to exceed $**[***]** at any one time outstanding;

(u) Indebtedness under any (i) unsecured Hedging Agreements entered into for hedging and not speculative purposes, and (ii) Hedging Agreements with respect to (1) currency exchange rates that are secured by assets or other property that do not constitute Collateral and (2) interest rates that, in each case of sub-clauses (1) and (2) above, is entered into for hedging and not speculative purposes and is secured only by cash or Cash Equivalents;

(v) to the extent constituting Indebtedness, Permitted Additional Royalty Financings; and

(w) subject to the proviso immediately below, extensions, refinancings, renewals, modifications, amendments, restatements and, in the case of any items of Permitted Indebtedness in clause (b) of the definition thereof or Permitted Indebtedness constituting notes governed by an indenture (including Permitted Convertible Indebtedness), exchanges, of any items of Permitted Indebtedness in clauses (a) through (v) above, provided, that in the case of clause (b) above, the principal amount thereof is not increased (other than by any reasonable amount of premium (if any), interest (including post-petition interest), fees, expenses, charges or additional or contingent interest reasonably incurred in connection with the same and the terms thereof; provided, further, that in the case of any Indebtedness permitted under clause (c) above, (w) the maturity thereof is not shortened to a date that is less than six (6) months after the Term Loan Maturity Date, (x) the amount of all Permitted Convertible Indebtedness permitted hereunder and then outstanding does not exceed the PCI Cap, (y) there is no change to or addition of any direct or indirect obligor with respect thereto unless such new obligor thereto is Borrower or is or shall concurrently become a Guarantor hereunder, and (z) such extension, refinancing, renewal, modification, amendment, restatement or exchange is otherwise permitted under this Agreement.

Notwithstanding the foregoing or anything in this Agreement to the contrary, except with respect to the Royalty Revenue Contract and the other Royalty Revenue Documents, (x) no direct or indirect synthetic royalty or similar financing transaction involving the sale of revenues or royalties with respect to Product entered into after the Tranche A Closing Date, and (y) except to the extent incurred in connection with any Permitted Acquisitions, Permitted Investments, in-licensing agreements or any collaboration, co-promotion or co-marketing arrangements, no Indebtedness constituting royalty payments or milestone payments based on net sales or similar payments that is, directly or indirectly, created, incurred, assumed or guaranteed after the Tranche A Closing Date, in each case of sub-clause (x) or (y) above, by a Credit Party or any of its Subsidiaries, shall in any instance be permitted under this Agreement without the prior written consent of the Collateral Agent or the Required Lenders.

"**Permitted Investments**" means:

(a) Investments (including Investments in Subsidiaries) existing on the Effective Date and shown on Schedule 13.2 of the Disclosure Letter, including any extensions, renewals or reinvestments thereof;

(b) Investments consisting of cash and Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(d) subject to Section 5.5, Investments consisting of deposit accounts or securities accounts;

(e) Investments in connection with Permitted Transfers;

(f) Investments consisting of (i) travel advances and employee relocation loans and other employee advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase

of equity securities of Borrower pursuant to employee stock purchase plans or agreements approved by Borrower's Board of Directors (or a committee thereof);

(g) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(h) Investments consisting of accounts receivable of, or prepaid royalties and other credit extensions or advances, to customers, suppliers or manufacturers who are not Affiliates, in the ordinary course of business or otherwise to support capacity demand; provided that this clause (h) shall not apply to Investments of any Credit Party in any of its Subsidiaries;

(i) joint ventures or strategic alliances consisting of the licensing or development of technology or the providing of technical support;

(j) Investments (i) required in connection with a Permitted Acquisition (including the formation of any Subsidiary for the purpose of effectuating such Permitted Acquisition, the capitalization of such Subsidiary whether by capital contribution or intercompany loans to the extent otherwise permitted by the terms of this Agreement, related Investments in Subsidiaries necessary to consummate such Permitted Acquisition and the receipt of any non-cash consideration in such Permitted Acquisition) and (ii) consisting of earnest money or escrow deposits required in connection with a Permitted Acquisition or other acquisition of properties or assets not otherwise prohibited hereunder;

(k) Investments constituting the formation of any Subsidiary for the purpose of consummating a merger or acquisition transaction permitted by Section 6.3(a)(i) through (iv) hereof, which such transaction is otherwise a Permitted Investment;

(l) Investments of any Person that (i) becomes a Subsidiary of Borrower (or of any Person not previously a Subsidiary of Borrower that is merged or consolidated with or into a Subsidiary of Borrower in a transaction permitted hereunder) after the Effective Date, or (ii) are assumed after the Effective Date by Borrower or any Subsidiary of Borrower in connection with an acquisition of assets from such Person by Borrower or such Subsidiary, in either case, in a Permitted Acquisition; provided, that in each case, any such Investment (w) does not constitute Indebtedness of such Person, (x) exists at the time such Person becomes a Subsidiary of Borrower (or is merged or consolidated with or into a Subsidiary of Borrower) or such assets are acquired, (y) was not made in contemplation of or in connection with such Person becoming a Subsidiary of Borrower (or merging or consolidating with or into a Subsidiary of Borrower) or such acquisition of assets, and (z) could not reasonably be expected to result in a Default or an Event of Default;

(m) Investments arising as a result of the licensing of Intellectual Property in the ordinary course of business and not prohibited under this Agreement;

(n) to the extent constituting an Investment, any Permitted Equity Derivative, including the payment of premiums in connection therewith;

(o) Investments by: (i) any Credit Party in any other Credit Party (or a Person that, concurrently with such Investment (or within the timing requirements of Section 5.12, 5.13 or 5.14 if and only to the extent applicable thereto) becomes a Credit Party); (ii) any Subsidiary of Borrower which is not a Credit Party in another Subsidiary of Borrower which is not a Credit Party; (iii) any Subsidiary of Borrower which is not a Credit Party in any Credit Party; (iv) any Credit Party in a Subsidiary of Borrower which is not a Credit Party, not to exceed $**[***]** in the case of this sub-clause (iv) in the aggregate outstanding at any time; and (v) Borrower and its Subsidiaries consisting of Equity Interests in their respective Subsidiaries existing on the Tranche A Closing Date;

(p) Repurchases of capital stock of Borrower or any of its Subsidiaries deemed to occur upon the exercise of options, warrants or other rights to acquire capital stock of Borrower or such Subsidiary solely to the extent that shares of such capital stock represent a portion of the exercise price of such options, warrants or such rights or in connection with the satisfaction of withholding tax obligations;

(q) Investments consisting of non-cash consideration received for any Permitted Transfer;

(r) Investments consisting of acquisitions from third parties of inventory, equipment, office supplies, software and other similar assets in the ordinary course of business;

(s) Investments consisting of in-licensing agreements, provided that no Indebtedness that is not Permitted Indebtedness is incurred or assumed in connection therewith;

(t) To the extent constituting an Investment, guarantees of Permitted Indebtedness and Contingent Obligations of the type described in clause (b) of the definition thereof, in each case to the extent permitted under Section 6.4;

(u) other Investments, not to exceed $**[***]** outstanding at any time; and

(v) (i) unsecured Hedging Agreements entered into for hedging and not speculative purposes, and (ii) Hedging Agreements with respect to interest rates that are secured by cash or Cash Equivalents and, in each case, entered into for hedging and not speculative purposes;

provided, however, that, none of the foregoing Investments shall be a "Permitted Investment" if any Indebtedness or Liens assumed in connection with such Investment are not otherwise permitted under Section 6.4 or 6.5, respectively.

"**Permitted License**" means, with respect to any Intellectual Property owned (or co-owned) or controlled by Borrower or any of its Subsidiaries: (a) any exclusive or non-exclusive license or covenant not to sue in any geography outside the Territory; (b) any exclusive or non-exclusive licenses or covenant not to sue included in (i) any Manufacturing Agreement or otherwise in any agreement with a contract manufacturer (including for clinical or commercial supply),or (ii) any agreement for other contract work (including marketing, logistics, clinical trial or sales force agreements, and similar vendor or fee-for-service arrangements), in each case, solely with respect to the services provided under such agreement and whether within or outside the Territory; (c) any exclusive or non-exclusive licenses or covenant not to sue with respect to any research and development, whether within or outside the Territory; and (d) any intercompany license or other similar arrangement among Credit Parties, whether within or outside the Territory. Notwithstanding any other provision of this Agreement, no "Permitted License" entered into after the Tranche A Closing Date shall be a "Prohibited License" hereunder.

"**Permitted Liens**" means:

(a) Liens in favor and for the benefit of any Lender and the other Secured Parties securing the Obligations pursuant to any Loan Document;

(b) Liens existing on the Effective Date and set forth on Schedule 13.3 of the Disclosure Letter;

(c) Liens for Taxes, assessments or governmental charges which (i) are not yet due and payable or (ii) if due and payable, are being contested in good faith and by appropriate proceedings; provided, that, in each case, adequate reserves therefor have been set aside on the books of the applicable Person and maintained in conformity with GAAP;

(d) (i) pledges or deposits made in the ordinary course of business (other than Liens imposed by ERISA) in connection with workers' compensation, payroll taxes, employment insurance, unemployment insurance, old-age pensions, or other similar social security legislation, (ii) pledges or deposits made in the ordinary course of business 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 Borrower or any of its Subsidiaries, (iii) subject to Section 6.2(b), statutory or common law Liens of landlords, (iv) Liens otherwise arising by operation of law in favor of the owner or sublessor of leased premises and confined to the property rented, (v) Liens that are restrictions on transfer of securities imposed by applicable securities laws, (vi) Liens resulting from a filing by a lessor as a precautionary filing for a true lease, and (vii) pledges or deposits to secure performance of tenders, bids, leases, statutory or regulatory obligations, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of like nature, in each case other than for borrowed money and entered into in the ordinary course of business;

(e) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under either Section 7.4 or 7.7;

(f) Liens (including the right of set-off) in favor of banks or other financial institutions incurred on deposits made in accounts held at such institutions in the ordinary course of business; provided that such Liens (i) are not given in connection with the incurrence of any Indebtedness, (ii) relate solely to obligations for administrative and other banking fees and expenses incurred in the ordinary course of business in connection with

the establishment or maintenance of such accounts and (iii) are within the general parameters customary in the banking industry;

(g) Liens that are contractual rights of set-off (i) relating to pooled deposit or sweep accounts of Borrower or any of its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business or (ii) relating to purchase orders and other agreements entered into with customers of Borrower or any of its Subsidiaries in the ordinary course of business, including vendors' liens to secure payment arising under Article 2 of the Code or similar provisions of Requirements of Law in the ordinary course of business, covering only the goods sold and securing only the unpaid purchase price for such goods and related expenses;

(h) Liens solely on any cash earnest money deposits made by Borrower or any of its Subsidiaries in connection with any Permitted Acquisition, Permitted Investment or other acquisition of assets or properties not otherwise prohibited under this Agreement;

(i) Liens existing on assets or properties at the time of its acquisition or existing on the assets or properties of any Person at the time such Person becomes a Subsidiary of Borrower, in each case after the Effective Date; provided that (i) neither such Lien was created nor the Indebtedness secured thereby was incurred in contemplation of such acquisition or such Person becoming a Subsidiary of Borrower, (ii) such Lien does not extend to or cover any other assets or properties (other than the proceeds or products thereof and other than after-acquired assets or properties subject to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that requires, pursuant to its terms and conditions in effect at such time, a pledge of after-acquired assets or properties, it being understood that such requirement shall not be permitted to apply to any assets or properties to which such requirement would not have applied but for such acquisition), and (iii) the Indebtedness secured thereby is permitted under Section 6.4 hereof;

(j) Liens securing Indebtedness permitted under clause (d) of the definition of "Permitted Indebtedness" (including any extensions, refinancings, modifications, amendments or restatements of such Indebtedness permitted under clause (w) of the definition of "Permitted Indebtedness"); provided, that such Lien does not extend to or cover any assets or properties other than those that are (i) subject to such Capital Lease Obligations or Capital Leases or (ii) acquired with or otherwise financed or refinanced by such Indebtedness;

(k) servitudes, easements, rights-of-way, restrictions and other similar encumbrances on real property imposed by Requirements of Law and encumbrances consisting of zoning or building restrictions, easements, licenses, restrictions on the use of property or minor defects or other irregularities in title which, in the aggregate, are not material, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any Credit Party or any Subsidiary of any Credit Party;

(l) to the extent constituting a Lien, escrow arrangements securing indemnification obligations associated with any Permitted Acquisition or Permitted Investment;

(m) (i) leases or subleases of real property granted in the ordinary course of business (including, if referring to a Person other than a Credit Party or a Subsidiary, in the ordinary course of such Person's business), (ii) licenses, sublicenses, leases or subleases of personal property (other than Intellectual Property) granted to third parties in the ordinary course of business, in each case which does not interfere in any material respect with the operations of the business of any Credit Party or any of its Subsidiaries and do not prohibit granting the Collateral Agent a security interest in any Credit Party's personal property held at such location for the benefit of the Lenders and other Secured Parties, (iii) Permitted Licenses, and (iv) retained interests of lessors or licensors or similar parties under any in-licenses;

(n) Liens on cash or other current assets pledged to secure: (i) Indebtedness in respect of corporate credit cards, purchasing cards or bank card products, provided, that any such Indebtedness shall not exceed $**[***]** in the aggregate at any time outstanding; or (ii) Indebtedness in the form of letters of credit or bank guarantees entered into in the ordinary course of business, provided, that any such Indebtedness is secured solely by cash or Cash Equivalents;

(o) Liens on any properties or assets of Borrower or any of its Subsidiaries which do not constitute Collateral under the Loan Documents, other than (i) any Company IP that does not constitute Collateral under the Loan Documents but is related to any research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory and (ii) Equity Interests of any Subsidiary;

(p) Liens on any properties or assets of Borrower or any of its Subsidiaries imposed by law or regulation which were incurred in the ordinary course of business, including landlords', carriers', warehousemen's, mechanics', materialmen's, contractors', suppliers of materials', architects' and repairmen's Liens, and other similar Liens arising in the ordinary course of business; provided that such Liens (i) do not materially detract from the value of such properties or assets subject thereto or materially impair the use of such properties or assets subject thereto in the operations of the business of Borrower or such Subsidiary or (ii) are being contested in good faith by appropriate proceedings which conclusively operate to stay the sale or forfeiture of any portion of such properties or assets subject thereto, and for which adequate reserves have been set aside on the books of the applicable Person and maintained in conformity with GAAP, if required;

(q) Liens in favor of customs and revenue authorities arising as a Requirement of Law which were incurred in the ordinary course of business, to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(r) Liens on any goods sold to Borrower or any of its Subsidiaries in the ordinary course of business in favor of the seller thereof, but only to the extent securing the unpaid purchase price for such goods and any related expenses;

(s) Liens securing Permitted Indebtedness or other obligations of a Credit Party permitted hereunder in favor of any other Credit Party;

(t) Liens securing Indebtedness owed by a Subsidiary of Borrower that is not a Credit Party permitted under clause (i) of the definition of "Permitted Indebtedness," in favor of a Credit Party or another Subsidiary of Borrower that is not a Credit Party;

(u) other Liens to the extent that the obligations secured thereby (determined as of the date such Lien is incurred) do not exceed $**[***]** outstanding in the aggregate;

(v) Liens solely on cash and Cash Equivalents securing Hedging Agreements with respect to interest rates that are entered into for hedging and not speculative purposes;

(w) Liens on insurance policies and the proceeds thereof; provided, that, in each case, such Liens are not given in connection with the incurrence of any Indebtedness, secure only the financing of the insurance premiums with respect thereto, and are within the general parameters customary in the insurance industry;

(x) rights of first refusal, voting, redemption, transfer or other restrictions (including call provisions and buy-sell provisions) with respect to the Excluded Equity Interests of any joint venture or other Persons that are not Subsidiaries;

(y) backup security interests with respect to Permitted Additional Royalty Financings; and

(z) subject to the provisos immediately below, the modification, replacement, extension or renewal of the Liens described in clauses (a) through (x) above; provided, however, that any such modification, replacement, extension or renewal must (i) be limited to the assets or properties encumbered by the existing Lien (and any additions, accessions, parts, improvements and attachments thereto and the proceeds thereof) and (ii) not increase the principal amount of any Indebtedness secured by the existing Lien (other than by any reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred in connection therewith; provided, further, that to the extent any of the Liens described in clauses (a) through (x) above secure Indebtedness of a Credit Party, such Liens, and any such modification, replacement, extension or renewal thereof, shall constitute Permitted Liens if and only to the extent that such Indebtedness is permitted under Section 6.4.

"**Permitted Negative Pledges**" means:

(a) prohibitions or limitations with regard to specific properties or assets encumbered by Permitted Liens, if and only to the extent each such prohibition or limitation applies only to such properties or assets;

(b) prohibitions or limitations set forth in any lease or other similar agreement entered into in the ordinary course of business, or in any license or other similar agreement not prohibited hereunder;

(c) prohibitions or limitations relating to Permitted Indebtedness, in the case of each relevant agreement, document or instrument if and only to the extent such prohibitions or limitations, taken as a whole, are

not materially more restrictive than the prohibitions and limitations set forth in this Agreement and the other Loan Documents, taken as a whole (as reasonably determined by a Responsible Officer of Borrower in good faith);

(d) customary provisions restricting assignments, subletting, sublicensing or other transfer of properties or assets subject thereto set forth in leases, subleases, licenses (including Permitted Licenses) and other similar agreements that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such restriction applies only to the properties or assets subject to such leases, subleases, licenses or agreements, and customary provisions restricting assignment, pledges or transfer of any agreement entered into in the ordinary course of business;

(e) prohibitions or limitations imposed by Requirements of Law;

(f) prohibitions or limitations that exist as of the Effective Date under Indebtedness existing on the Effective Date;

(g) customary prohibitions or limitations arising in connection with any Permitted Transfer or contained in any agreement relating to any Permitted Transfer pending the consummation of such Permitted Transfer;

(h) customary provisions in shareholders' agreements, joint venture agreements, Operating Documents or similar binding agreements relating to, or any agreement evidencing Indebtedness of, any joint venture entity or non-Wholly-Owned Subsidiary and applicable solely to such joint venture entity or non-Wholly-Owned Subsidiary and the Equity Interests issued thereby;

(i) customary net worth provisions set forth in real property leases entered into by Subsidiaries of Borrower, so long as such net worth provisions could not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(j) customary net worth provisions set forth in customer agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document, so long as such net worth provisions could not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(k) restrictions on cash or other deposits (including escrowed funds) imposed by agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document;

(l) prohibitions or limitations set forth in any agreement in effect at the time any Person becomes a Subsidiary (but not any amendment, modification, restatement, renewal, extension, supplement or replacement expanding the scope of any such restriction or condition); provided that such agreement was not entered into in contemplation of such Person becoming a Subsidiary and each such prohibition or limitation does not apply to Borrower or any other Subsidiary (other than such Person and any other Person that is a Subsidiary of such first Person at the time such first Person becomes a Subsidiary);

(m) prohibitions or limitations imposed by any Loan Document;

(n) customary provisions set forth in joint venture agreements or agreements governing minority investments that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to the joint venture entity or minority investment that is the subject of such agreement;

(o) limitations imposed with respect to any license acquired in a Permitted Acquisition;

(p) customary provisions restricting assignments or other transfer of properties or assets subject thereto set forth in any agreement entered into in the ordinary course of business, if and only to the extent each such restriction applies only to the properties or assets subject to such agreement;

(q) prohibitions or limitations imposed by any agreement evidencing any Permitted Indebtedness of the type described in clause (d) of the definition of "Permitted Indebtedness"; and

(r) prohibitions or limitations imposed by any amendments, modifications, restatements, renewals, extensions, supplements or replacements of any of the agreements referred to in clauses (a) through (q) above, except to the extent that any such amendment, modification, restatement, renewal, extension, supplement or replacement expands the scope of any such prohibition or limitation.

"**Permitted Subsidiary Distribution Restrictions**" means:

(a) prohibitions or limitations with regard to specific properties or assets encumbered by Permitted Liens, if and only to the extent each such prohibition or limitation applies only to such properties or assets;

(b) prohibitions or limitations set forth in any lease, license or other similar agreement entered into in the ordinary course of business;

(c) prohibitions or limitations relating to Permitted Indebtedness, in the case of each relevant agreement, document or instrument if and only to the extent (x) such prohibitions or limitations, taken as a whole, are not materially more restrictive than the prohibitions and limitations set forth in this Agreement and the other Loan Documents, taken as a whole (as reasonably determined by a Responsible Officer of Borrower in good faith) or (y) acceptable to the Collateral Agent in its sole discretion;

(d) customary provisions restricting assignments, subletting, sublicensing or other transfer of properties or assets subject thereto set forth in leases, subleases, licenses (including Permitted Licenses) and other similar agreements that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such restriction applies only to the properties or assets subject to such leases, subleases, licenses or agreements, and customary provisions restricting assignment, pledges or transfer of any agreement entered into in the ordinary course of business;

(e) prohibitions or limitations on the transfer or assignment of any properties, assets or Equity Interests set forth in any agreement entered into in the ordinary course of business that is not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to such properties, assets or Equity Interests;

(f) prohibitions or limitations imposed by Requirements of Law;

(g) prohibitions or limitations that exist as of the Effective Date under Indebtedness existing on the Effective Date;

(h) customary prohibitions or limitations arising in connection with any Permitted Transfer or contained in any agreement relating to any Permitted Transfer pending the consummation of such Permitted Transfer;

(i) customary provisions in shareholders' agreements, joint venture agreements, Operating Documents or similar binding agreements relating to, or any agreement evidencing Indebtedness of, any joint venture entity or non-Wholly-Owned Subsidiary and applicable solely to such joint venture entity or non-Wholly-Owned Subsidiary and the Equity Interests issued thereby;

(j) customary net worth provisions set forth in real property leases entered into by Subsidiaries of Borrower, so long as such net worth provisions could not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(k) customary net worth provisions set forth in customer agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document, so long as such net worth provisions could not reasonably be expected to impair the ability of Borrower or its Subsidiaries to meet their ongoing obligations (as reasonably determined by a Responsible Officer of Borrower in good faith);

(l) restrictions on cash or other deposits (including escrowed funds) imposed by agreements entered into in the ordinary course of business that are not otherwise prohibited under this Agreement or any other Loan Document;

(m) prohibitions or limitations set forth in any agreement in effect at the time any Person becomes a Subsidiary (but not any amendment, modification, restatement, renewal, extension, supplement or replacement expanding the scope of any such restriction or condition); provided that such agreement was not entered into in

contemplation of such Person becoming a Subsidiary and each such prohibition or limitation does not apply to Borrower or any other Subsidiary (other than such Person and any other Person that is a Subsidiary of such first Person at the time such first Person becomes a Subsidiary);

(n) prohibitions or limitations imposed by any Loan Document, the Royalty Revenue Documents or any Permitted Additional Royalty Financing Documents;

(o) customary provisions set forth in joint venture agreements or agreements governing minority investments that are not otherwise prohibited under this Agreement or any other Loan Document, if and only to the extent each such prohibition or limitation applies only to the joint venture entity or minority investment that is the subject of such agreement;

(p) customary provisions restricting assignments or other transfer of properties or assets subject thereto set forth in any agreement entered into in the ordinary course of business, if and only to the extent each such restriction applies only to the properties or assets subject to such agreement;

(q) prohibitions or limitations imposed by any agreement evidencing any Permitted Indebtedness of the type described in clause (d) of the definition of "Permitted Indebtedness"; and

(r) prohibitions or limitations imposed by any amendments, modifications, restatements, renewals, extensions, supplements or replacements of any of the agreements referred to in clauses (a) through (q) above, except to the extent that any such amendment, modification, restatement, renewal, extension, supplement or replacement expands the scope of any such prohibition or limitation.

"**Permitted Transaction**" is defined in Section 2.2(c)(iii).

"**Permitted Transfers**" means:

(a) Transfers of any properties or assets which do not constitute Collateral under the Loan Documents, other than any Company IP that does not constitute Collateral under the Loan Documents but is related to any aspect of the research, development, manufacture, production, use, commercialization, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory (other than, for the avoidance of doubt, any such Company IP Transferred pursuant to any Permitted License);

(b) Transfers of Inventory in the ordinary course of business;

(c) Transfers of surplus, damaged, worn out or obsolete equipment that is, in the reasonable judgment of a Responsible Officer of Borrower exercised in good faith, no longer economically practicable to maintain or useful in the ordinary course of business, and Transfers of other properties or assets in lieu of any pending or threatened institution of any proceedings for the condemnation or seizure of such properties or assets or for the exercise of any right of eminent domain;

(d) Transfers made in connection with Permitted Liens, Permitted Acquisitions or Permitted Investments;

(e) Transfers of cash and Cash Equivalents in the ordinary course of business for equivalent value and in a manner that is not prohibited under this Agreement or the other Loan Documents;

(f) Transfers (i) between or among Credit Parties, provided, that, with respect to any properties or assets constituting Collateral under the Loan Documents, any and all steps as may be required to be taken in order to create and maintain a first priority security interest in and Lien upon such properties and assets in favor of the Collateral Agent for the benefit of Lenders and the other Secured Parties are taken contemporaneously with the completion of any such Transfer, (ii) by Credit Parties to non-Credit Parties, provided, that, any such Transfer of cash or Cash Equivalents shall not exceed $**[***]**, individually or together with any and all other such Transfers, provided, further, that such Transfer does not otherwise include any properties or assets constituting Collateral under the Loan Documents, and (iii) between or among non-Credit Parties.

(g) (i) the sale or issuance of Equity Interests of any Subsidiary of Borrower to any Credit Party or Subsidiary, provided, that any such sale or issuance by a Credit Party shall be to another Credit Party; and (ii) the sale, transfer, issuance or other disposition of a *de minimis* number of shares of the Equity Interests of any Subsidiary of Borrower in order to qualify members of the governing body of such Subsidiary if required by Requirements of Law;

(h) the discount without recourse or sale or other disposition of unpaid and overdue accounts receivable arising in the ordinary course of business in connection with the compromise, collection or settlement thereof and not part of a financing transaction;

(i) any abandonment, disclaimer, forfeiture, dedication to the public, cancellation, non-renewal or discontinuance of use, prosecution or maintenance of any Company IP that Borrower reasonably determines in good faith (i) is no longer economically practicable or commercially reasonable to maintain or useful in the ordinary course of business and (ii) could not reasonably be expected to be adverse to the rights, remedies and benefits available to, or conferred upon, the Collateral Agent or any Lender under any Loan Document in any material respect;

(j) Transfers by Borrower or any of its Subsidiaries pursuant to any Permitted License;

(k) intercompany licenses or grants of rights of distribution, co-promotion or similar commercial rights (i) between or among Credit Parties or (ii) between or among Credit Parties and Subsidiaries of Borrower that are not Credit Parties, which in each case is not otherwise prohibited hereunder;

(l) any involuntary loss, damage or destruction of property or any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(m) licenses, sublicenses, leases or subleases, in each case other than relating to any Company IP, granted to third parties in the ordinary course of business and not material to any aspect of the research, development, manufacture, production, use (by any Credit Party or its Subsidiaries), commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory;

(n) the abandonment disclaimer, forfeiture, dedication to the public, cancellation, non-renewal or other disposition of any Company IP that is (i) not material to any aspect of the research, development, manufacture, production, use (by any Credit Party or its Subsidiaries), commercialization, marketing, importing, storage, transport, packaging, labelling, promotion, advertising, offer for sale, distribution or sale of Product in the Territory or (ii) no longer used or useful in any material respect in any Product line of business of Borrower and its Subsidiaries;

(o) any involuntary disposition or any sale, lease, license or other disposition of property (other than, for the avoidance of doubt, any Company IP) in settlement of, or to make payment in satisfaction of, any property or casualty insurance;

(p) sales, leases, licenses, transfers or other dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such sale, lease, license, transfer or other disposition are promptly applied to the purchase price of similar replacement property;

(q) any early unwind, settlement or termination of any Permitted Equity Derivative;

(r) other Transfers made in the ordinary course of business on commercially reasonable arm’s length terms;

(s) Transfers consisting of the sale of revenues or royalties relating to product other than Product entered into after the Tranche A Closing Date in connection with any Permitted Additional Royalty Financing Document;

(t) Transfers of the (i) the Participation Right (as defined in the 2020 RPI PSA (as defined in the Intercreditor Agreement) as in effect on the Effective Date), solely to the extent that title thereto has been transferred to the RPI pursuant to the terms of the 2020 RPI PSA, (ii) the 2021 Revenue Participation Right (as defined in the 2021 RPI PSA (as defined in the Intercreditor Agreement) as in effect on the Effective Date), solely to the extent that title thereto has been transferred to the RPI pursuant to the terms of the 2021 RPI PSA, or (iii) the Revenue Participation Right (as defined in the OMERS PSA (as defined in the Intercreditor Agreement) as in effect on the Effective Date), solely to the extent that title thereto has been transferred to OMERS pursuant to the terms of the OMERS PSA;

(u) Transfers of the equity interests of JPR Royalty Sub pursuant to an exercise of remedies under the Pledge and Security Agreement (as defined in the JPR Indenture) or in connection with the compromise or settlement of claims with holders of Indebtedness issued under the JPR Indenture;

(v) the unwinding of Hedging Agreements permitted under clause (u) of the definition of Permitted Indebtedness;

(w) Transfers in the form of non-exclusive licenses not otherwise prohibited; and

(x) other Transfers of assets or properties, so long as the fair market value (as reasonably determined in good faith by a Responsible Officer of Borrower) thereof does not exceed, individually or in the aggregate, $**[***]** per fiscal year.

"**Person**" means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, exempted company, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Personal Data**" means information protected as "personal data," "personal information," "personally identifiable information," "protected health information," "medical information," "identifiable private information," or any similar terms under applicable Data Protection Laws, including, without limitation, customer, consumer, patient, clinical trial participant and employee information collected, created, received, maintained, stored, transmitted, or otherwise processed by or for Borrower or any of its Subsidiaries.

"**Personal Data Breach**" is defined in Section 4.22(b).

"**PHSA**" is defined in Section 4.19(b).

"**PIK Election**" is defined in Section 2.3(a)(iv).

"**PIK Election Notice**" is defined in Section 2.3(a)(iv).

"**PIK Interest**" is defined in Section 2.3(a)(iv).

"**Plan**" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the IRC or Section 302 of ERISA which is maintained or contributed to by Borrower or its Subsidiaries or their respective ERISA Affiliates or with respect to which Borrower or its Subsidiaries have any liability (including under Section 4069 of ERISA).

"**Prepayment Premium**" means the Tranche A Prepayment Premium, the Tranche B Prepayment Premium, the Tranche C Prepayment Premium or the Tranche D Prepayment Premium (as applicable) or any combination thereof, as the context dictates.

"**Product**" means, collectively: (a) the pharmaceutical product known as ORLADEYO® (berotralstat) used for the prevention or treatment of attacks of hereditary angioedema (HAE), or for prevention or treatment of any angioedema-related condition or disorder, including the product approved by the FDA under NDA 214094 and any supplements thereto, or any other approval of a product owned or controlled by Borrower or any of its Subsidiaries that contains berotralstat, in any dosage form, dosing regimen, strength or route of administration (collectively, "**ORLADEYO®**"); and (b) any other approved pharmaceutical product owned or controlled by Borrower or any of its Subsidiaries that contains as an active ingredient the chemical compound known as berotralstat in any form, and any successors thereto, for any indication (including prevention or treatment of angioedema and related conditions or any other swelling disease, disorder or condition), in any dosage form, dosing regimen, strength or route of administration.

"**Product Revenue Forecast**" means, as of any time of determination, the latest product revenue forecast, delivered by Borrower pursuant to Section 5.2(f)(v). .

"**Prohibited License**" means an exclusive or non-exclusive license or sublicense to a Person other than a Subsidiary of Borrower, of any Intellectual Property owned or controlled by Borrower or any of its Subsidiaries within the Territory that covers Product and conveys to the licensee or sublicensee exclusive or non-exclusive rights to practice all or substantially all rights to such Intellectual Property in the Territory; provided, that, no Permitted License shall be a Prohibited License.

"**Refinancing Convertible Debt**" is defined in Section 2.2(c)(iii).

"**Register**" is defined in Section 2.8.

"**Registered Organization**" means any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Regulatory Agency**" means a U.S. or foreign Governmental Authority with responsibility for the approval, authorization, clearance, or licensure of the marketing and sale of pharmaceuticals or other regulation of pharmaceuticals, or otherwise having authority to regulate Product, including the FDA, EMA and Medicines and Healthcare Products Regulatory Agency ("**MHRA**").

"**Regulatory Approvals or Licensures**" means all U.S., EU, UK and any other foreign approvals, exclusivities, authorizations, licensure or clearances (including approval under FDCA §§ 505 or 515 and clearance under FDCA § 510(k)); licensures (including Orphan Drug exclusive approval under 21 C.F.R. § 316.34 or any foreign equivalents); designations (including (i) Orphan Drug designation under 21 C.F.R. § 316.24 or any foreign equivalents); (ii) Fast Track designation, Breakthrough Therapy designation, and Priority Review designation under 21 U.S.C. § 356 and any corresponding regulations and as interpreted through guidance documents by FDA (and foreign equivalents); and (iii) Qualified Infectious Disease Product designation under 21 U.S.C. § 355f (including an award of "GAIN" exclusivity) and any corresponding regulations and as interpreted through guidance documents by FDA (and foreign equivalents); and any product or establishment licenses, registrations, approvals, or authorizations of any Regulatory Agency necessary for the manufacture, use, import, export, storage, transport, offer for sale, or distribution or sale of Product.

"**Regulatory Submission Material**" means all regulatory filings, submissions, approvals, licensures, and authorizations related to any research, development, manufacture, production, use, commercialization, post-approval (or post-licensure, post-authorization, or post-clearance, as applicable) monitoring and reporting, marketing, importing, storage, transport, offer for sale, distribution or sale of Product in the Territory, including all data and information provided in, and used to develop, any of the foregoing.

"**Related Parties**" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"**Relevant Governmental Body**" means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

"**Required Lenders**" means, (a) prior to the Tranche A Closing Date, Lenders obligated with respect to greater than fifty percent (50%) of the Term Loan Commitments and (b), as of any date of determination thereafter, Lenders representing greater than fifty percent (50%) of the principal amount of the Term Loans outstanding as of such date.

"**Requirements of Law**" means, as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, order, policy, rule or regulation or determination of an arbitrator or a court or other Governmental Authority (including Environmental Laws, Health Care Laws, Data Protection Laws and FDA Laws, EU Laws, U.K. Laws and all other applicable statutes, rules, regulations, standards, guidelines, policies and orders administered or issued by any foreign Governmental Authority) in each case, applicable to and binding upon such Person or any of its assets or properties or to which such Person or any of its assets or properties are subject, including, with respect to Borrower, the rules or requirements of any applicable U.S. national securities exchange applicable to Borrower or any of its Equity Interests.

"**Responsible Officers**" means, the chief executive officer, president, chief financial officer, chief research and development officer, chief commercial officer or chief legal officer of a Credit Party or in the case of a Foreign Subsidiary that is a Credit Party, any of its directors; provided, however, that solely in the case of Section 5.17(b)

hereof, "Responsible Officers" shall also include the chief strategy officer, chief medical officer and chief development officer of a Credit Party.

"**Royalty Revenue Contract**" means collectively, the (i) Purchase and Sale Agreement, dated as of December 7, 2020, by and between Borrower and RPI, as amended or modified by the Purchase and Sale Agreement, dated as of November 19, 2021, by and between Borrower and RPI, (ii) Purchase and Sale Agreement, dated as of November 19, 2021, by and between Borrower and RPI and (iii) Purchase and Sale Agreement, dated as of November 19, 2021, by and between Borrower and OMERS.

"**Royalty Revenue Documents**" means, collectively, the Royalty Revenue Contract, the RPI Documents (as such term is defined in the Intercreditor Agreement) and the OMERS Documents (as such term is defined in the Intercreditor Agreement).

"**RPI**" means RPI 2019 Intermediate Finance Trust.

"**Sanctioned Country**" means, at any time, a country or territory which is itself the subject or target of comprehensive Sanctions (currently, those portions of the Donetsk People's Republic, the Luhansk People's Republic, Kherson and Zaporizhzhia regions (and such other regions) of Ukraine over which any Sanctions authority imposes comprehensive Sanctions, Crimea, Cuba, Iran, Syria and North Korea), or any country or territory whose government is the subject of Sanctions (including, Venezuela) or that is otherwise the subject of broad Sanctions restrictions (including, Afghanistan, Russia and Belarus).

"**Sanctions**" is defined in Section 4.18(c).

"**SEC**" means the United States Securities and Exchange Commission and any analogous Governmental Authority.

"**Secretary's Certificate**" means, with respect to any Person, a certificate of such Person executed by its Secretary, authorized signatory or director certifying as to the various matters set forth therein.

"**Section 5 of the FTC Act**" means the Section 5(a) of the U.S. Federal Trade Commission Act (15 U.S.C. § 45), which prohibits unfair and deceptive acts or practices in or affecting commerce and serves as the primary basis for U.S. Federal Trade Commission authority on privacy and security.

"**Secured Parties**" means each Lender, each other Indemnified Person and each other holder of any Obligation of a Credit Party.

"**Securities Account**" means any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Security Agreement**" means the Guaranty and Security Agreement, dated as of the Closing Date, by and among the Credit Parties and the Collateral Agent, in form and substance substantially similar to Exhibit C attached hereto or in such form or substance as the Credit Parties and the Collateral Agent may otherwise agree.

"**Security Incidents**" is defined in Section 4.22(b).

"**Security Program**" is defined in Section 4.22(b).

"**Sensitive Information**" means, collectively, (a) any Personal Data that is subject to any Data Protection Law, (b) any information in which Borrower or any of its Subsidiaries have IP Ancillary Rights or any other Intellectual Property rights (including Company IP) (other than immaterial IP Ancillary Rights or Intellectual Property rights outside the Territory), (c) any material information with respect to which Borrower or any of its Subsidiaries have contractual non-disclosure obligations, and (d) Regulatory Submission Materials.

"**SOFR**" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"**SOFR Administrator**" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"**Software**" means "Software", as such term is defined in the Security Agreement.

"**Solvent**" means, with respect to any Person as of any date of determination, that, as of such date, (a) the value of the assets (including goodwill minus disposition costs) of such Person (both at fair value and present fair saleable value) is greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Person, (b) such Person is able to generally pay all liabilities (including trade debt) of such Person as such liabilities become absolute and mature in the ordinary course of business and (c) such Person does not have unreasonably small capital after giving due consideration to the prevailing practice in the industry in which it is engaged or will be engaged. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**SSA**" means the Social Security Act of 1935, codified at Title 42, Chapter 7, of the United States Code.

"**Stock Acquisition**" means the purchase or other acquisition by Borrower or any of its Subsidiaries of any of the Equity Interests (by merger, stock purchase or otherwise) in any other Person.

"**Subordinated Debt**" means any Indebtedness in the form of or otherwise constituting term debt incurred by any Credit Party or any Subsidiary thereof (including any Indebtedness incurred in connection with any Acquisition or other Investment) that: (a) is subordinated in right of payment to the Obligations at all times until all of the Obligations have been paid, performed or discharged in full and Borrower has no further right to obtain any Credit Extension hereunder, pursuant to a subordination, intercreditor or other similar agreement that is in form and substance reasonably satisfactory to the Collateral Agent (which agreement shall include turnover provisions that are reasonably satisfactory to the Collateral Agent); (b) except as permitted by clause (d) below, is not subject to scheduled amortization, redemption (mandatory), sinking fund or similar payment and does not have a final maturity, in each case, before a date that is at least 180 days following the Term Loan Maturity Date; (c) does not include covenants (including financial covenants) and agreements (excluding agreements with respect to maturity, amortization, pricing and other economic terms) that, taken as a whole, are more restrictive or onerous on the Credit Parties in any material respect than the comparable covenants and agreements, taken as a whole, in the Loan Documents (as reasonably determined by a Responsible Officer of such Credit Party in good faith); (d) is not subject to repayment or prepayment, including pursuant to a put option exercisable by the holder of any such Indebtedness, prior to a date that is at least 180 days following the final maturity thereof except in the case of an event of default or change of control (or, in each case, the equivalent thereof, however described); and (e) does not provide or otherwise include provisions having the effect of providing that a default or event of default (or the equivalent thereof, however described) under or in respect of such Indebtedness shall exist, or such Indebtedness shall otherwise become due prior to its scheduled maturity or the holder or holders thereof or any trustee or agent on its or their behalf shall be permitted (with or without the giving of notice, the lapse of time or both) to cause any such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity, in any such case upon the occurrence of a Default or Event of Default hereunder unless and until the Obligations have been declared, or have otherwise automatically become, immediately due and payable pursuant to Section 8.1(a). Notwithstanding the foregoing, Indebtedness under Permitted Convertible Indebtedness, Indebtedness under the Royalty Revenue Contract and other Royalty Revenue Documents and Indebtedness under any Permitted Additional Royalty Financing Document shall not constitute Subordinated Debt.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, limited liability company or other entity of which more than fifty percent (50.0%) of whose shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors (or similar body, if applicable) of such corporation, partnership or other entity are at the time owned, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of a Credit Party.

"**Systems**" is defined in Section 4.22(a).

"**Tax**" means any taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges of any nature or hereafter imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Tax Related Prepayment Trigger**" is defined in Section 2.9(b).

"**Term Loan**" means each of the Tranche A Loan, the Tranche B Loan, the Tranche C Loan and the Tranche D Loan, as applicable, and "**Term Loans**" means, collectively, the Tranche A Loan, the Tranche B Loan, the Tranche C Loan and the Tranche D Loan.

"**Term Loan Commitment**" means, each of the Tranche A Commitment, the Tranche B Commitment, the Tranche C Commitment and the Tranche D Commitment, as applicable, and "**Term Loan Commitments**" means, collectively, the Tranche A Commitment, the Tranche B Commitment, the Tranche C Commitment and the Tranche D Commitment.

"**Term Loan Maturity Date**" means the 5th-year anniversary of the Tranche A Closing Date.

"**Term Loan Note**" means the Tranche A Note, the Tranche B Note, the Tranche C Note or the Tranche D Note (as applicable), or any combination thereof, as the context dictates.

"**Term Loan Rate**" is defined in Section 2.3(a)(i).

"**Term SOFR**" means, for any day in any calendar month, the Term SOFR Reference Rate for a tenor of three (3) months to the applicable Interest Period on the day (such day, the "**Periodic Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days' prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; provided, further, that if Term SOFR determined as provided above (including pursuant to the proviso above) shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"**Term SOFR Administrator**" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Collateral Agent in its reasonable discretion).

"**Term SOFR Reference Rate**" means the forward-looking term rate based on SOFR.

"**Territory**" means the United States, the United Kingdom, Germany, France and Ireland.

"**Third Party IP**" is defined in Section 4.6(l).

"**Threshold Amount**" means **[***]** Dollars ($**[***]**).

"**Trademarks**" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, service marks, elements of package or trade dress of goods or services, logos and other source or business identifiers, together with the goodwill associated therewith, including all registrations and recordings thereof, and all applications in connection therewith, in the United States Patent and Trademark Office or in any similar office or agency of the United States or any state thereof or in any similar office or agency anywhere in the world in which foreign counterparts are registered or issued, and (b) all renewals thereof.

"**Tranche A Additional Consideration**" means an amount equal to $**[***]**.

"**Tranche A Closing Date**" means the date on which the Tranche A Loan is advanced by Lenders, which is the Effective Date.

"**Tranche A Commitment**" means, with respect to any Lender, the commitment of such Lender to make the Credit Extensions relating to the Tranche A Loan on the Tranche A Closing Date in the aggregate principal amount set forth opposite such Lender's name on Exhibit D attached hereto.

"**Tranche A Loan**" is defined in Section 2.2(a)(i). For the avoidance of doubt, the Tranche A Loan includes the original principal amount thereof and any and all PIK Interest capitalized pursuant to Section 2.3(a)(iv) hereof.

"**Tranche A Loan Amount**" means an original principal amount equal to Three Hundred Million Dollars ($300,000,000.00) *plus* any and all PIK Interest capitalized pursuant to Section 2.3(a)(iv) hereof.

"**Tranche A Makewhole Amount**" means, as of any date of prepayment of the Tranche A Loan (or applicable portion thereof) occurring prior to the 2nd-year anniversary of the Tranche A Closing Date, an amount equal to (i) the sum of all interest (including any uncapitalized PIK Interest) that would have accrued and been payable from such date of prepayment through the 2nd-year anniversary of the Tranche A Closing Date on the amount of principal prepaid plus (ii) an amount equal to the product of (x) the amount of any principal so prepaid, multiplied by (y) 0.03. For purposes of calculating the Tranche A Makewhole Amount: (a) the date of determination shall be such date of prepayment, using the interest rate as in effect on such date, provided, that, for purposes of any such prepayment pursuant to Section 2.2(c)(ii), the date of determination shall be the date on which the Change in Control is consummated; and (b) the Default Rate shall not apply to any interest that would have accrued and been payable from and after such date of determination.

"**Tranche A Note**" means a promissory note in substantially the form attached hereto as Exhibit B-1, as it may be amended, restated, supplemented or otherwise modified from time to time.

"**Tranche A Prepayment Premium**" means, with respect to any prepayment of the Tranche A Loan by Borrower pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), an amount equal to the product of the amount of any principal so prepaid, multiplied by:

(a) if such prepayment occurs on or after the 2nd anniversary of the Tranche A Closing Date but prior to the 3rd-year anniversary of the Tranche A Closing Date, 0.03;

(b) if such prepayment occurs on or after the 3rd-year anniversary of the Tranche A Closing Date but prior to the 4th-year anniversary of the Tranche A Closing Date, 0.02; and

(c) if such prepayment occurs on or after the 4th-year anniversary of the Tranche A Closing Date but prior to the Term Loan Maturity Date, 0.01.

For the avoidance of doubt, no Tranche A Prepayment Premium shall be due and owing for any prepayment of principal of the Tranche A Loan made prior to the 2nd anniversary of the Tranche A Closing Date or any payment of principal of the Tranche A Loan made on the Term Loan Maturity Date.

"**Tranche B Additional Consideration**" means an amount equal to $**[***]**.

"**Tranche B Closing Date**" means the date on which the Tranche B Loan is advanced by Lenders, which, as indicated in the Advance Request Form for the Tranche B Loan and subject to the satisfaction of the conditions precedent to the Tranche B Loan set forth in Section 3.2, Section 3.5, Section 3.6 and Section 3.7, shall be sixty (60) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of the completed Advance Request Form for the Tranche B Loan; provided, however, that if the aggregate amount requested by Borrower, together with any additional amounts requested in respect of the Tranche C Commitment and the Tranche D Commitment, exceeds the Threshold Amount at the time the Advance Request Form for the Tranche B Loan is delivered to the Collateral Agent, then the Tranche B Closing Date shall be seventy-five (75) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of the completed Advance Request Form for the Tranche B Loan.

"**Tranche B Commitment**" means, with respect to any Lender, the commitment of such Lender to make the Credit Extensions relating to the Tranche B Loan on the Tranche B Closing Date in the aggregate principal amount set forth opposite such Lender's name on Exhibit D attached hereto; provided, however, that the parties hereto agree that such commitment, and any obligations of such Lender hereunder with respect thereto, shall terminate automatically without any further action by any party hereto and be of no further force and effect if Borrower fails to validly request the Tranche B Loan on or before September 30, 2024 (in which case, for purposes of this Agreement, such Lender's Tranche B Commitment equals zero).

"**Tranche B Loan**" is defined in Section 2.2(a)(ii).

"**Tranche B Loan Amount**" means an original principal amount equal to up to Fifty Million Dollars ($50,000,000.00); provided, that if the events described in the proviso to the definition of "Tranche B Commitment" occurs, the Tranche B Loan Amount, for purposes of this Agreement, equals zero.

"**Tranche B Makewhole Amount**" means, as of any date of prepayment of the Tranche B Loan (or applicable portion thereof) occurring prior to the 2nd-year anniversary of the Tranche B Closing Date, an amount equal to (i) the sum of all interest that would have accrued and been payable from such date of prepayment through the 2nd-year anniversary of the Tranche B Closing Date on the amount of principal prepaid plus (ii) an amount equal

to the product of (x) the amount of any principal so prepaid, multiplied by (y) 0.03. For purposes of calculating the Tranche B Makewhole Amount: (a) the date of determination shall be such date of prepayment, using the interest rate as in effect on such date, provided, that, for purposes of any such prepayment pursuant to Section 2.2(c)(ii), the date of determination shall be the date on which the Change in Control is consummated; and (b) the Default Rate shall not apply to any interest that would have accrued and been payable from and after such date of determination.

"**Tranche B Note**" means a promissory note in substantially the form attached hereto as Exhibit B-2, as it may be amended, restated, supplemented or otherwise modified from time to time.

"**Tranche B Prepayment Premium**" means, with respect to any prepayment of the Tranche B Loan by Borrower pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), an amount equal to the product of the amount of any principal so prepaid, multiplied by:

(a) if such prepayment occurs on or after the 2nd anniversary of the Tranche B Closing Date but prior to the 3rd-year anniversary of the Tranche B Closing Date, 0.03;

(b) if such prepayment occurs on or after the 3rd-year anniversary of the Tranche B Closing Date but prior to the 4th-year anniversary of the Tranche B Closing Date, 0.02; and

(c) if such prepayment occurs on or after the 4th-year anniversary of the Tranche B Closing Date but prior to the Term Loan Maturity Date, 0.01.

For the avoidance of doubt, no Tranche B Prepayment Premium shall be due and owing for any prepayment of principal of the Tranche B Loan made prior to the 2nd anniversary of the Tranche B Closing Date or any payment of principal of the Tranche B Loan made on the Term Loan Maturity Date.

"**Tranche C Additional Consideration**" means an amount equal to $**[***]**.

"**Tranche C Closing Date**" means the date on which the Tranche C Loan is advanced by Lenders, which, as indicated in the Advance Request Form for the Tranche C Loan and subject to the satisfaction of the conditions precedent to the Tranche C Loan set forth in Section 3.3, Section 3.5, Section 3.6 and Section 3.7, shall be sixty (60) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of a completed Advance Request Form for the Tranche C Loan; provided, however, that if the aggregate amount requested by Borrower, together with any additional amounts requested in respect of the Tranche B Commitment and the Tranche D Commitment, exceeds the Threshold Amount at the time the Advance Request Form for the Tranche C Loan is delivered to the Collateral Agent, then the Tranche C Closing Date shall be seventy-five (75) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of the completed Advance Request Form for the Tranche C Loan.

"**Tranche C Commitment**" means, with respect to any Lender, the commitment of such Lender to make the Credit Extensions relating to the Tranche C Loan on the Tranche C Closing Date in the aggregate principal amount set forth opposite such Lender's name on Exhibit D attached hereto; provided, however, that the parties hereto agree that such commitment, and any obligations of such Lender hereunder with respect thereto, shall terminate automatically without any further action by any party hereto and be of no further force and effect if Borrower fails to validly request the Tranche C Loan on or before September 30, 2024 (in which case, for purposes of this Agreement, such Lender's Tranche C Commitment equals zero).

"**Tranche C Loan**" is defined in Section 2.2(a)(iii).

"**Tranche C Loan Amount**" means an original principal amount requested by Borrower of up to Fifty Million Dollars ($50,000,000.00); provided, that if the events described in the proviso to the definition of "Tranche C Commitment" occurs, the Tranche C Loan Amount, for purposes of this Agreement, equals zero.

"**Tranche C Makewhole Amount**" means, as of any date of prepayment of the Tranche C Loan (or applicable portion thereof) occurring prior to the 2nd-year anniversary of the Tranche C Closing Date, an amount equal to the sum of (i) all interest that would have accrued and been payable from such date of prepayment through the 2nd-year anniversary of the Tranche C Closing Date on the amount of principal prepaid plus (ii) an amount equal to the product of (x) the amount of any principal so prepaid, multiplied by (y) 0.03. For purposes of calculating the Tranche C Makewhole Amount: (a) the date of determination shall be such date of prepayment, using the interest rate as in effect on such date, provided, that, for purposes of any such prepayment pursuant to Section 2.2(c)(ii), the date of determination shall be the date on which the Change in Control is consummated; and (b) the Default Rate shall not apply to any interest that would have accrued and been payable from and after such date of determination.

"**Tranche C Note**" means a promissory note in substantially the form attached hereto as Exhibit B-3, as it may be amended, restated, supplemented or otherwise modified from time to time.

"**Tranche C Prepayment Premium**" means, with respect to any prepayment of the Tranche C Loan by Borrower pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), an amount equal to the product of the amount of any principal so prepaid, multiplied by:

(a) if such prepayment occurs on or after the 2nd anniversary of the Tranche C Closing Date but prior to the 3rd-year anniversary of the Tranche C Closing Date, 0.03;

(b) if such prepayment occurs on or after the 3rd-year anniversary of the Tranche C Closing Date but prior to the 4th-year anniversary of the Tranche C Closing Date, 0.02; and

(c) if such prepayment occurs on or after the 4th-year anniversary of the Tranche C Closing Date but prior to the Term Loan Maturity Date, 0.01.

For the avoidance of doubt, no Tranche C Prepayment Premium shall be due and owing for any prepayment of principal of the Tranche C Loan made prior to the 2nd anniversary of the Tranche C Closing Date or any payment of principal of the Tranche C Loan made on the Term Loan Maturity Date.

"**Tranche D Additional Consideration**" means an amount equal to $**[***]**.

"**Tranche D Closing Date**" means the date on which the Tranche D Loan is advanced by Lenders, which, as indicated in the Advance Request Form for the Tranche D Loan and subject to the satisfaction of the conditions precedent to the Tranche D Loan set forth in Section 3.4, Section 3.5, Section 3.6 and Section 3.7, shall be sixty (60) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of a completed Advance Request Form for the Tranche D Loan; provided, however, that if the aggregate amount requested by Borrower, together with any additional amounts requested in respect of the Tranche B Commitment and the Tranche C Commitment, exceeds the Threshold Amount at the time the Advance Request Form for the Tranche D Loan is delivered to the Collateral Agent, then the Tranche D Closing Date shall be seventy-five (75) days (or such shorter period as may be agreed to by Lenders) following the delivery by Borrower to the Collateral Agent of the completed Advance Request Form for the Tranche D Loan.

"**Tranche D Commitment**" means, with respect to any Lender, the commitment of such Lender to make the Credit Extensions relating to the Tranche D Loan on the Tranche D Closing Date in the aggregate principal amount set forth opposite such Lender's name on Exhibit D attached hereto; provided, however, that the parties hereto agree that such commitment, and any obligations of such Lender hereunder with respect thereto, shall terminate automatically without any further action by any party hereto and be of no further force and effect if Borrower fails to validly request the Tranche D Loan on or before September 30, 2024 (in which case, for purposes of this Agreement, such Lender's Tranche D Commitment equals zero).

"**Tranche D Loan**" is defined in Section 2.2(a)(iv).

"**Tranche D Loan Amount**" means an original principal amount requested by Borrower of up to Fifty Million Dollars ($50,000,000.00); provided, that if the events described in the proviso to the definition of "Tranche D Commitment" occurs, the Tranche D Loan Amount, for purposes of this Agreement, equals zero.

"**Tranche D Makewhole Amount**" means, as of any date of prepayment of the Tranche D Loan (or applicable portion thereof) occurring prior to the 2nd-year anniversary of the Tranche D Closing Date, an amount equal to the sum of (i) all interest that would have accrued and been payable from such date of prepayment through the 2nd-year anniversary of the Tranche D Closing Date on the amount of principal prepaid plus (ii) an amount equal to the product of (x) the amount of any principal so prepaid, multiplied by (y) 0.03. For purposes of calculating the Tranche D Makewhole Amount: (a) the date of determination shall be such date of prepayment, using the interest rate as in effect on such date, provided, that, for purposes of any such prepayment pursuant to Section 2.2(c)(ii), the date of determination shall be the date on which the Change in Control is consummated; and (b) the Default Rate shall not apply to any interest that would have accrued and been payable from and after such date of determination.

"**Tranche D Note**" means a promissory note in substantially the form attached hereto as Exhibit B-4, as it may be amended, restated, supplemented or otherwise modified from time to time.

"**Tranche D Prepayment Premium**" means, with respect to any prepayment of the Tranche D Loan by Borrower pursuant to Section 2.2(c) or as a result of the acceleration of the maturity of the Term Loans pursuant to Section 8.1(a), an amount equal to the product of the amount of any principal so prepaid, multiplied by:

(a) if such prepayment occurs on or after the 2nd anniversary of the Tranche D Closing Date but prior to the 3rd-year anniversary of the Tranche D Closing Date, 0.03;

(b) if such prepayment occurs on or after the 3rd-year anniversary of the Tranche D Closing Date but prior to the 4th-year anniversary of the Tranche D Closing Date, 0.02; and

(c) if such prepayment occurs on or after the 4th-year anniversary of the Tranche D Closing Date but prior to the Term Loan Maturity Date, 0.01.

For the avoidance of doubt, no Tranche D Prepayment Premium shall be due and owing for any prepayment of principal of the Tranche D Loan made prior to the 2nd anniversary of the Tranche D Closing Date or any payment of principal of the Tranche D Loan made on the Term Loan Maturity Date.

"**Transfer**" is defined in Section 6.1.

"**Treasury Regulations**" mean those regulations promulgated pursuant to the IRC.

"**TRICARE**" means, collectively, a program of medical benefits covering former and active members of the uniformed services and certain of their dependents, financed and administered by the United States Departments of Defense, Health and Human Services and Transportation, and all laws applicable to such programs.

"**UKBA**" is defined in Section 4.18(a).

"**U.K. Laws**" means all applicable statutes, rules and regulations implemented administered or enforced by the MHRA, the National Health Services, or the competent authorities of the United Kingdom's constituent countries, including, but not limited to, the Human Medicines Regulations 2012 (SI 2012/1916), and related implementing legislation.

"**Unadjusted Benchmark Replacement**" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"**United Kingdom**" or "**U.K.**" means the United Kingdom, its constituent countries, and any other jurisdiction within the United Kingdom.

"**United States**" or "**U.S.**" means the United States of America, its fifty (50) states, the District of Columbia, Puerto Rico and any other jurisdiction within the United States of America.

"**U.S. Government Securities Business Day**" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**Wholly-Owned Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, all of the Equity Interests of which (other than directors' qualifying shares or nominee or other similar shares required pursuant to Requirements of Law) are owned by such Person or another Wholly-Owned Subsidiary of such Person. Unless the context otherwise requires, each reference to a Wholly-Owned Subsidiary herein shall be a reference to a Wholly-Owned Subsidiary of a Credit Party.

"**Withdrawal Event**" means (a) any voluntary withdrawal or removal of ORLADEYO® by any Credit Party or any of its Subsidiaries in (i) the United States, or (ii) in any other jurisdiction(s) in the Territory other than the United States if such voluntary withdrawal or removal is the result of any safety issue, (b) the loss of marketing authorization for ORLADEYO® in the Territory, or (c) the receipt by any Credit Party or any of its Subsidiaries of any written notice from the FDA or any other Regulatory Agency of a final decision to withdraw marketing authorization for ORLADEYO® in the Territory.

"**Withdrawal Liability**" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"**Withholding Agent**" is defined in Section 2.6(b).

13.2 Irish terms. In this Agreement, any reference to an "**examiner**" shall mean an examiner (including an interim examiner) appointed under section 509 of the Irish Companies Act and "**examinership**" shall be construed accordingly.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BIOCRYST PHARMACEUTICALS, INC.,
as Borrower and a Credit Party

By: /s/ Anthony J. Doyle
Name: Anthony J. Doyle
Title: Chief Financial Officer

BIOCRYST US SALES CO., LLC,
as an additional Credit Party

By: /s/ Anthony J. Doyle
Name: Anthony J. Doyle
Title: Chief Financial Officer

BIOCRYST IRELAND LIMITED,
as an additional Credit Party

By: /s/ Kevin Greaney
Name: Kevin Greaney
Title: Director

BIOPHARMA CREDIT PLC,
as Collateral Agent

By: Pharmakon Advisors, LP,
its Investment Manager

By: Pharmakon Management I, LLC,
its General Partner

By: /s/ Pedro Gonzalez de Cosio

Name: Pedro Gonzalez de Cosio

Title: Managing Member

BPCR LIMITED PARTNERSHIP,
as a Lender

By: Pharmakon Advisors, LP,
its Investment Manager

By: Pharmakon Management I, LLC,
its General Partner

By: /s/ Pedro Gonzalez de Cosio

Name: Pedro Gonzalez de Cosio

Title: Managing Member

BIOPHARMA CREDIT INVESTMENTS V (MASTER) LP,
as Lender

By: BioPharma Credit Investments V GP LLC,
its general partner

By: Pharmakon Advisors, LP,
its Investment Manager

By: /s/ Pedro Gonzalez de Cosio

Name: Pedro Gonzalez de Cosio

Title: CEO and Managing Member

BIOCRYST PHARMACEUTICALS, INC.
EMPLOYEE STOCK PURCHASE PLAN
(AS AMENDED AND RESTATED AS OF JULY 7, 2023)

I. PURPOSE OF THE PLAN

This Employee Stock Purchase Plan is intended to promote the interests of BioCryst Pharmaceuticals, Inc. by providing eligible employees with the opportunity to acquire a proprietary interest in the Corporation through participation in a payroll deduction based employee stock purchase plan designed to qualify under Section 423 of the Code.

Capitalized terms herein shall have the meanings assigned to such terms in the attached Appendix.

II. ADMINISTRATION OF THE PLAN

A. The Plan Administrator shall have full authority to interpret and construe any provision of the Plan and to adopt such rules and regulations for administering the Plan as it may deem necessary for the proper administration of the Plan and in order to comply with the requirements of Code Section 423. Decisions of the Plan Administrator shall be final and binding on all parties having an interest in the Plan.

B. The Plan Administrator may grant rights to purchase Common Stock under the Plan pursuant to rules, procedures or sub-plans adopted by the Board or the Plan Administrator that are designed to achieve tax, securities law or other compliance objectives in particular locations outside the United States. Such sub-plans may be designed to be outside the scope of Code Section 423. All grants made to participants outside of the United States shall be deemed to be made under a non-U.S. sub-plan, unless otherwise designated at the time of grant.

C. The Plan Administrator shall have the power, in its discretion, to establish separate, simultaneous or overlapping purchase periods having different terms and conditions and to designate the Participating Corporation(s) that may participate in a particular purchase period. Notwithstanding the foregoing, and except with respect to sub-plans designed to be outside the scope of Code Section 423, each purchase period shall individually comply with the terms of the Plan and the requirements of Code Section 423(b)(5) that all Participants granted purchase rights shall have equal rights and privileges under this Plan to the extent required under Code Section 423.

III. STOCK SUBJECT TO PLAN

A. The stock purchasable under the Plan shall be shares of authorized but unissued or reacquired Common Stock, including shares of Common Stock purchased on the open market. The maximum number of shares of Common Stock which may be issued over the term of the Plan shall not exceed 7,975,000 shares. If an outstanding purchase right for any reason expires or is terminated or canceled, the shares of Common Stock allocable to the unexercised portion of that purchase right shall again be available for issuance under the Plan.

B. Subject to any required action by the stockholders of the Corporation and the requirements of Code Section 424 to the extent applicable, in the event any change is made to the Common Stock by reason of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Corporation’s receipt of consideration, appropriate adjustments shall be made to (i) the maximum number and class of securities issuable under the Plan, (ii) the maximum number and class of securities purchasable per Participant on any one Purchase Date and (iii) the number and class of securities and the price per share in effect under each outstanding purchase right in order to prevent the dilution or enlargement of benefits thereunder.

IV. PURCHASE PERIODS

A. Shares of Common Stock shall be offered for purchase under the Plan through a series of successive purchase periods until such time as (i) the maximum number of shares of Common Stock available for issuance under the Plan shall have been purchased or (ii) the Plan shall have been sooner terminated.

B. Each purchase period shall have a duration of six (6) months, or such other duration as the Plan Administrator may determine. Notwithstanding the foregoing, the Plan Administrator may establish additional or alternative concurrent, sequential or overlapping purchase periods, a different duration for one or more purchase periods or different commencing or ending dates for such purchase periods; provided, however, such purchase periods comply with the terms of the Plan and Code Section 423 (except with respect to sub-plans designed to be outside the scope of Code Section 423) and no purchase period may have a duration exceeding twenty-seven (27) months. Unless otherwise provided by the Plan Administrator in an enrollment form, purchase periods shall run from the first business day in February to the last business day in July and from the first business day of August to the last business day of January.

V. ELIGIBILITY

A. Each individual who is an Eligible Employee on the start date of any purchase period shall be eligible to participate in the Plan for that purchase period.

B. To participate in the Plan for a particular purchase period, the Eligible Employee must complete the enrollment forms prescribed by the Plan Administrator (including a stock purchase agreement and a payroll deduction authorization form) and file such forms with the Plan Administrator (or its designate) on or before the start date of the purchase period.

VI. PAYROLL DEDUCTIONS

A. The payroll deduction authorized by the Participant for purposes of acquiring shares of Common Stock under the Plan may be any multiple of one percent (1%) of the Base Salary paid to the Participant during each purchase period, up to a maximum not to exceed fifteen percent (15%), as determined by the Plan Administrator and set forth in an enrollment form. The deduction rate so authorized shall continue in effect for the entire purchase period and for each subsequent purchase period in which the Participant is eligible to participate, except to the extent such rate is changed in accordance with the following guidelines:

(i) The Participant may, at any time during the purchase period, reduce his or her rate of payroll deduction to become effective as soon as administratively practicable after filing of the appropriate form with the Plan Administrator. The Participant may not, however, effect more than one (1) such reduction per purchase period.

(ii) The Participant may, prior to the commencement of any new purchase period, increase the rate of his or her payroll deduction by filing the appropriate form with the Plan Administrator. The new rate (which may not exceed the maximum in effect as set forth in Section VI(A)) shall become effective as of the start date of the new purchase period.

B. Payroll deductions shall begin on the first payday following the start date of the purchase period and shall (unless sooner terminated by the Participant) continue through the payday ending with or immediately prior to the last day of the purchase period. The amounts so collected shall be credited to the Participant’s book account under the Plan, but no interest shall be paid on the balance from time to time outstanding in such account, unless otherwise required by applicable law. The amounts collected from the Participant shall not be held in any segregated account or trust fund and may be commingled with the general assets of the Corporation and used for general corporate purposes.

C. Payroll deductions shall automatically cease upon the termination of the Participant's purchase right in accordance with the provisions of the Plan.

D. The Participant's acquisition of Common Stock under the Plan during any purchase period shall neither limit nor require the Participant's acquisition of Common Stock during any subsequent purchase period, subject to the limits set forth in the Plan.

VII. PURCHASE RIGHTS

A. **Grant of Purchase Right.** A Participant shall be granted a separate purchase right on the start date of each purchase period in which he or she participates. The purchase right shall grant the Participant the right to purchase shares of Common Stock on the Purchase Date upon the terms set forth below. The Participant shall execute a stock purchase agreement embodying such terms and such other provisions (not inconsistent with the Plan) as the Plan Administrator may deem advisable.

Under no circumstances shall purchase rights be granted under the Plan to any Eligible Employee if such individual would, immediately after the grant, own (within the meaning of Code Section 424(d)) or hold outstanding options or other rights to purchase, stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Corporation or any Corporate Affiliate.

B. **Exercise of the Purchase Right.** Each purchase right shall be automatically exercised on the Purchase Date, and shares of Common Stock shall accordingly be purchased on behalf of each Participant (other than Participants whose payroll deductions have previously been refunded in accordance with Section VII(F) below) on such date. The purchase shall be effected by applying the Participant's payroll deductions for the purchase period (together with any carryover deductions from the preceding purchase period) to the purchase of whole shares of Common Stock (subject to the limitation on the maximum number of shares purchasable per Participant on any one Purchase Date) at the purchase price in effect for that purchase period.

C. **Purchase Price.** The purchase price per share of Common Stock on any Purchase Date shall be equal to eighty-five percent (85%) of the lower of (i) the Fair Market Value per share of Common Stock on the start date of the purchase period or (ii) the Fair Market Value per share of Common Stock on the Purchase Date.

D. **Number of Purchasable Shares.** The number of shares purchasable by a Participant on any Purchase Date shall be the number of whole shares obtained by dividing the amount collected from the Participant through payroll deductions during the purchase period ending with such Purchase Date (together with any carryover deductions from the preceding purchase period) by the purchase price in effect for that Purchase Date. However, unless otherwise provided by the Plan Administrator, the maximum number of shares of Common Stock purchasable per Participant on any one Purchase Date shall not exceed Three Thousand (3,000) shares, subject to periodic adjustments in the event of certain changes in the Corporation's capitalization, as provided in the Plan.

E. **Excess Payroll Deductions.** Any payroll deductions not applied to the purchase of shares of Common Stock on any Purchase Date because they are not sufficient to purchase a whole share of Common Stock shall be held for the purchase of Common Stock on the next Purchase Date. However, any payroll deductions not applied to the purchase of Common Stock by reason of the limitation on the maximum number of shares purchasable by the Participant on the Purchase Date shall be promptly refunded.

F. **Termination of Purchase Right.** The following provisions shall govern the termination of outstanding purchase rights:

(i) A Participant may, at any time prior to the last day of the purchase period, terminate his or her outstanding purchase right by filing the appropriate form with the Plan Administrator (or its designate), and no further payroll deductions shall be collected from the Participant with respect to the terminated purchase right as soon as administratively practicable following the Plan Administrator's receipt of the Participant's properly completed form to terminate his or her outstanding purchase right. Any payroll deductions collected during the purchase period in which such termination occurs shall, at the Participant's election, be immediately refunded as soon as administratively practicable or held for the purchase of shares on the next Purchase Date. If no such election is made at the time such purchase right is terminated, then the payroll deductions collected with respect to the terminated right shall be refunded as soon as possible.

(ii) The termination of such purchase right shall be irrevocable, and the Participant may not subsequently rejoin the purchase period for which the terminated purchase right was granted. In order to resume participation in any subsequent purchase period, such individual must re-enroll in the Plan (by making a timely filing of the prescribed enrollment forms) on or before the start date of the new purchase period.

(iii) Should the Participant cease to remain an Eligible Employee for any reason (including, without limitation, termination of employment, death, disability or change in status) while his or her purchase right remains outstanding, then that purchase right shall immediately terminate, and all of the Participant's payroll deductions for the purchase period in which such cessation of Eligible Employee status occurs shall be immediately refunded.

G. **Corporate Transaction.** In the event of a Corporate Transaction during the purchase period, unless otherwise provided by the Plan Administrator, each outstanding purchase right shall automatically be exercised, immediately prior to the Effective Date of such Corporate Transaction, by applying the payroll deductions of each Participant for the purchase period to the purchase of whole shares of Common Stock at a purchase price per share equal to eighty-five percent (85%) of the lower of (i) the Fair Market Value per share of Common Stock on the start date of the purchase period or (ii) the Fair Market Value per share of Common Stock immediately prior to the effective date of such Corporate Transaction. However, the applicable share limitations per Participant shall continue to apply to any such purchase.

The Corporation shall use its best efforts to provide at least ten (10)-days prior written notice of the occurrence of any Corporate Transaction, and Participants shall, following the receipt of such notice, have the right to terminate their outstanding purchase rights prior to the effective date of the Corporate Transaction.

H. **Proration of Purchase Rights.** Should the total number of shares of Common Stock to be purchased pursuant to outstanding purchase rights on any particular date exceed the number of shares then available for issuance under the Plan, the Plan Administrator shall make a pro-rata allocation of the available shares on a uniform and nondiscriminatory basis, and the payroll deductions of each Participant, to the extent in excess of the aggregate purchase price payable for the Common Stock pro-rated to such individual, shall be refunded. Any fractional share resulting from such pro rata allocation to any Participant shall be disregarded.

I. **Assignability.** During the Participant's lifetime, the purchase right shall be exercisable only by the Participant and shall not be assignable or transferable by the Participant.

J. **Stockholder Rights.** A Participant shall have no stockholder rights with respect to the shares subject to his or her outstanding purchase right until the shares are purchased on the Participant's behalf in accordance with the provisions of the Plan and the Participant has become a holder of record of the purchased shares.

VIII. ACCRUAL LIMITATIONS

A. No Participant shall be entitled to accrue rights to acquire Common Stock pursuant to any purchase right outstanding under this Plan if and to the extent such accrual, when aggregated with (i) rights to purchase Common Stock accrued under any other purchase right granted under this Plan and (ii) similar rights accrued under other employee stock purchase plans (within the meaning of Code Section 423) of the Corporation or any Corporate Affiliate, would otherwise permit such Participant to purchase more than Twenty-Five Thousand Dollars ($25,000) worth of stock of the Corporation or any Corporate Affiliate (determined on the basis of the Fair Market Value of such stock on the date or dates such rights are granted) for each calendar year such rights are at any time outstanding.

B. For purposes of applying such accrual limitations, the following provisions shall be in effect:

(i) The right to acquire Common Stock under each purchase right shall accrue on the Purchase Date in effect for the purchase period for which such right is granted.

(ii) No right to acquire Common Stock under any outstanding purchase right shall accrue to the extent the Participant has already accrued in the same calendar year the right to acquire Common Stock under one (1) or more other purchase rights at a rate equal to Twenty-Five Thousand Dollars ($25,000) worth of Common Stock (determined on the basis of the Fair Market Value of such stock on the date or dates of grant) for each calendar year such rights were at any time outstanding. Such limitation shall be applied in conformance with Code Section 423(b)(8).

C. If by reason of such accrual limitations, any purchase right of a Participant does not accrue for a particular purchase period, then the payroll deductions which the Participant made during that purchase period with respect to such purchase right shall be promptly refunded.

D. In the event there is any conflict between the provisions of this article and one or more provisions of the Plan or any instrument issued thereunder, the provisions of this article shall be controlling.

IX. EFFECTIVE DATE AND TERM OF THE PLAN

A. The Plan was originally adopted by the Board on December 9, 1994 and became effective on the Effective Date subject to approval by the stockholders of the Corporation and the Corporation having complied with all applicable requirements of the 1933 Act (including the registration of the shares of Common Stock issuable under the Plan on a Form S-8 registration statement filed with the Securities and Exchange Commission) and applicable listing requirements of any Stock Exchange on which the Common Stock is listed for trading and all other applicable requirements established by law or regulation.

B. Unless sooner terminated by the Board, the Plan shall terminate upon the earlier of (i) the date on which all shares available for issuance under the Plan shall have been sold pursuant to purchase rights exercised under the Plan or (ii) the date on which all purchase rights are exercised in connection with a Corporate Transaction.

X. AMENDMENT OF THE PLAN

The Board may alter, amend, suspend or discontinue the Plan following the close of any purchase period. However, the Board may not, without the approval of the Corporation’s stockholders, (i) materially increase the number of shares of Common Stock issuable under the Plan or the maximum number of shares purchasable per Participant on any one Purchase Date, except for permissible adjustments in the event of certain changes in the Corporation’s capitalization, (ii) alter the purchase price formula so as to reduce the purchase price payable for the shares purchasable

under the Plan, (iii) materially increase the benefits accruing to Participants under the Plan or materially modify the requirements for eligibility to participate in the Plan; or (iv) except with respect to any sub-plan designed to be outside the scope of Code Section 423, otherwise amend the Plan in any manner that would cause the Plan to no longer be an "employee stock purchase plan" within the meaning of Code Section 423(b).

If the Plan is terminated, the Plan Administrator may elect to terminate all outstanding purchase periods either immediately or once shares of Common Stock have been purchased on the next Purchase Date (which may, in the sole discretion of the Plan Administrator, be accelerated). If any purchase period is terminated before its scheduled expiration, all amounts that have not been used to purchase shares of Common Stock will be returned to Participants (without interest unless otherwise required by law) as soon as administratively practicable.

XI. GENERAL PROVISIONS

A. All costs and expenses incurred in the administration of the Plan shall be paid by the Corporation.

B. Nothing in the Plan shall confer upon the Participant any right to continue in the employ or other service of the Corporation or any Corporate Affiliate for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any Corporate Affiliate employing or engaging such person) or of the Participant, which rights are hereby expressly reserved by each, to terminate such person's employment or service at any time for any reason, with or without cause.

C. The provisions of the Plan shall be governed by the laws of the State of Delaware without resort to that State's conflict-of-laws rules.

D. At the time a Participant's purchase right is exercised, in whole or in part, or at the time a Participant disposes of some or all of the shares of Common Stock he or she acquires under the Plan, the Participant shall make adequate provision for the federal, state, local and foreign taxes, if any, required to be withheld by any Participating Corporation upon exercise of the purchase right or upon such disposition of shares, respectively. A Participating Corporation may, but shall not be obligated to, withhold from the Participant's compensation the amount necessary to meet such withholding obligations.

E. The issuance of shares of Common Stock under the Plan shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities, including, without limitation, the 1933 Act and the 1934 Act. A purchase right may not be exercised if the issuance of shares upon such exercise would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulation or the requirements of any Stock Exchange upon which the Common Stock may then be listed. As a condition to the exercise of a purchase right, the Corporation may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Corporation. The Plan Administrator shall have the right to require any Participant to comply with any timing or other restrictions with respect to the settlement, distribution or exercise of any purchase right, including a window-period limitation, as may be imposed in the sole discretion of the Plan Administrator.

DEFINITIONS

The following definitions shall be in effect under the Plan:

A. **Base Salary** shall mean the regular base salary paid to a Participant by one or more Participating Corporations during such individual's period of participation in the Plan, plus any pre-tax contributions made by the Participant to any Code Section 401(k) salary deferral plan or any Code Section 125 cafeteria benefit program now or hereafter established by the Corporation or any Corporate Affiliate. The following items of compensation shall **not** be included in Base Salary: (i) all overtime payments, bonuses, commissions (other than those functioning as base salary equivalents), profit-sharing distributions and other incentive-type payments and (ii) any and all contributions (other than Code Section 401(k) or Code Section 125 contributions) made on the Participant's behalf by the Corporation or any Corporate Affiliate under any employee benefit or welfare plan now or hereafter established.

B. **Board** shall mean the Corporation's Board of Directors.

C. **Code** shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

D. **Common Stock** shall mean the Corporation's common stock, par value $0.01 per share.

E. **Corporate Affiliate** shall mean any parent or subsidiary corporation of the Corporation (as determined in accordance with Code Section 424), whether now existing or subsequently established.

F. **Corporate Transaction** shall mean either of the following stockholder-approved transactions to which the Corporation is a party:

(i) a merger or consolidation in which securities possessing more than fifty percent (50%) of the total combined voting power of the Corporation's outstanding securities are transferred to a person or persons different from the persons holding those securities immediately prior to such transaction, or

(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Corporation in complete liquidation or dissolution of the Corporation.

G. **Corporation** shall mean BioCryst Pharmaceuticals, Inc., a Delaware corporation, and any corporate successor to all or substantially all of the assets or voting stock of BioCryst Pharmaceuticals, Inc. which shall by appropriate action adopt the Plan.

H. **Effective Date** shall mean February 1, 1995. Any Corporate Affiliate which becomes a Participating Corporation after such Effective Date shall designate a subsequent Effective Date with respect to its employee-Participants.

I. **Eligible Employee** shall mean any person who is engaged, on a regularly-scheduled basis of more than twenty (20) hours per week for more than five (5) months per calendar year, in the rendition of personal services to any Participating Corporation as an employee for earnings considered wages under Section 3401(a) of the Code, unless otherwise required by applicable law. Notwithstanding the foregoing, the Plan Administrator may exclude from participation in the Plan as an Eligible Employee any employee who is a citizen or resident of a foreign jurisdiction (without regard to whether such employee is also a citizen of the United States or a resident alien (within the meaning of Code Section 7701(b)(1)(A))) if either (i) the grant of the purchase right is prohibited under the laws of the jurisdiction governing such employee, or (ii) compliance with the laws of the foreign jurisdiction would cause the Plan or the purchase right to violate the requirements of Code

Section 423; provided that any such exclusion shall be applied in an identical manner under each purchase period to all such employees in accordance with Treasury Regulation Section 1.423-2(e).

J. **Fair Market Value** per share of Common Stock on any relevant date shall be determined in accordance with the following provisions:

(i) If the Common Stock is at the time traded on the Nasdaq Global Market, the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question, as such price is reported on the Nasdaq Global Market or any successor system. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(ii) If the Common Stock is at the time listed on any other Stock Exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the Stock Exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such Stock Exchange. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(iii) If the Common Stock is not listed on a Stock Exchange, its Fair Market Value shall be established by the Plan Administrator in good faith.

K. **1933 Act** shall mean the Securities Act of 1933, as amended.

L. **1934 Act** shall mean the Securities Exchange Act of 1934, as amended.

M. **Participant** shall mean any Eligible Employee of a Participating Corporation who is actively participating in the Plan.

N. **Participating Corporation** shall mean the Corporation and such Corporate Affiliate or Affiliates as may be authorized from time to time by the Board to extend the benefits of the Plan to their Eligible Employees. The Participating Corporations in the Plan as of the Effective Date are listed in attached Schedule A.

O. **Plan** shall mean the Corporation's Employee Stock Purchase Plan, as set forth in this document, as it may be amended from time to time.

P. **Plan Administrator** shall mean the committee of two (2) or more Board members appointed by the Board to administer the Plan (the "Committee"), except with respect to such matters that are not delegated to the Committee by the Board (whether pursuant to committee charter or otherwise). The Committee (or the Board, with respect to such matters over which it retains authority under the Plan or otherwise) may delegate (i) to one or more of its members (or one or more other members of the Board) such of its duties, powers and responsibilities as it may determine; and (ii) to such employees or other persons as it determines such ministerial tasks as it deems appropriate. For purposes of the Plan, the term "Plan Administrator" will include the Committee, the Board and the person or persons delegated authority under the Plan to the extent of such delegation, as applicable.

Q. **Purchase Date** shall mean the last business day of each purchase period.

R. **Stock Exchange** shall mean the Nasdaq Global Select Market, the New York Stock Exchange or other national securities exchange or quotation system.

Exhibit 31.1

CERTIFICATIONS

I, Jon P. Stonehouse, certify that:

1. I have reviewed this quarterly report on Form 10-Q of BioCryst Pharmaceuticals, 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

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

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

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

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

Date: August 7, 2023

/s/ Jon P. Stonehouse
Jon P. Stonehouse
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATIONS

I, Anthony Doyle, certify that:

1. I have reviewed this quarterly report on Form 10-Q of BioCryst Pharmaceuticals, 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

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

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

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

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

Date: August 7, 2023

/s/ Anthony Doyle
Anthony Doyle
Chief Financial Officer

Exhibit 32.1

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 of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jon P. Stonehouse, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

(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.

/s/ Jon P. Stonehouse
Jon P. Stonehouse
President and Chief Executive Officer
Date: August 7, 2023

Exhibit 32.2

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 of BioCryst Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Anthony Doyle, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

(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.

/s/ Anthony Doyle
Anthony Doyle
Chief Financial Officer
Date: August 7, 2023